EXPEDITED CONSIDERATION REQUESTED

BEFORE THE
SURFACE TRANSPORTATION BOARD
DOCKET NO. FD 36496

APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORP. UNDER 49 U.S.C. § 24308(e) – CSX TRANSPORTATION, INC. AND NORFOLK SOUTHERN CORPORATION

AMTRAK'S REPLY TO THE SUPPLEMENTAL EVIDENCE AND BRIEFING SUBMITTED BY CSX, NS, AND THE PORT ON JULY 27, 2022

Eleanor D. Acheson
Chief Legal Officer, General Counsel
& Corporate Secretary
National Railroad Passenger Corporation
1 Massachusetts Avenue, NW
Washington, DC 20001
(202) 906-3971

Jessica Ring Amunson
Kali N. Bracey
Alex Trepp
Jenner & Block LLP
Suite 900
1099 New York Avenue, NW
Washington, DC 20001
(202) 639-6000
jamunson@jenner.com

Counsel for National Railroad Passenger Corporation

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INTRODUCTION

Amtrak's supplemental filing confirms that the *Gulf Coast* service can be implemented promptly, with minimal disruption to freight transportation along the lines owned by the host railroads, CSX Transportation, Inc. ("CSX") and Norfolk Southern Railway Company ("NS"). CSX and NS's arguments to the contrary are meritless, and their demands for costly infrastructure improvements are unsupported. Their supplemental filing further demonstrates that CSX and NS have failed to meet their statutory burden to show unreasonable impairment to their freight transportation. The Board should therefore grant Amtrak's petition to add two daily round-trip trains between Mobile, Alabama and New Orleans, Louisiana within 60 days.

First, as discussed below in Part I, CSX and NS's supplemental Rail Traffic Controller ("RTC") analysis confirms their failure to offer persuasive evidence to support their arguments, particularly as to their demand for half-a-billion dollars of new infrastructure before a single *Gulf Coast* train can run. When their tables and charts showing impacts on freight transportation are converted from percentages to real numbers, it is obvious that the effects of Amtrak's *Gulf Coast* service are negligible, and well within the range of service variability that CSX and NS regularly experience. Moreover, while CSX uses "unplanned recrew" statistics to claim that the *Gulf Coast* service will negatively affect CSX's customers, these statistics do not provide any meaningful insights into customer impacts. Indeed, there is simply *no* evidence in this proceeding of any meaningful impact to freight customers resulting from the additional Amtrak trains.

Second, as explained in Part II, CSX and NS continue to misconstrue the governing statute, and their legal arguments are either waived or meritless. CSX and NS essentially admit that their true aim in this proceeding is to convince the Board that passenger service is less important than

freight service.[1] However, Congress already struck the appropriate balance in the governing statute, 49 U.S.C. § 24308(e), and placed the burden on host railroads to demonstrate unreasonable impairment to freight traffic from additional Amtrak trains. CSX and NS failed to clear this hurdle, notwithstanding an extensive evidentiary hearing and multiple rounds of briefing. In all events, as Amtrak has previously explained, passenger service along the Gulf Coast is in the public interest,[2] as demonstrated by the numerous stakeholders that support Amtrak's efforts to return *Gulf Coast* service to the region after a prolonged absence in the wake of Hurricane Katrina.

I. CSX AND NS'S SUPPLEMENTAL ANALYSIS DOES NOT SHOW UNREASONABLE IMPAIRMENT OF FREIGHT TRANSPORTATION.

CSX and NS's supplemental filing confirms what the evidentiary hearing already showed: the introduction of two additional round-trip Amtrak trains on the Gulf Coast corridor does not unreasonably impair CSX's or NS's freight transportation. As CSX and NS have conceded, their RTC study was not even designed to identify unreasonable impairment.[3] Instead, they equated *any* impact on CSX and NS's freight transportation with unreasonable impairment.[4] The RTC model they offer as the only evidence of unreasonable impairment is insufficient to satisfy the heavy statutory burden that Congress places upon CSX and NS in this case. Nor can such a model justify half-a-billion dollars in new infrastructure before a single passenger train can run. The Board should therefore reject CSX and NS's RTC modeling for measuring unreasonable impairment. Furthermore, CSX and NS have failed to provide sufficient information on impacts to their customers. Even after this round of supplemental briefing, there is still no evidence at all that any customer will be impacted by the addition of two round-trip Amtrak trains per day.

[1] *See* CSX and NS Supp. Br. at 76.
[2] Amtrak Supp. Br. at 23.
[3] Hr'g Tr. at 1572.
[4] Amtrak Supp. Br. at 17.

A. CSX and NS's Additional RTC Modeling Does Not Show Unreasonable Impairment.

Amtrak has already shown that its proposed *Gulf Coast* service causes minimal impacts on freight transportation, even using CSX and NS's own model.[5] Indeed, as Amtrak pointed out, CSX and NS have effectively conceded as much by arguing that they need not invest in any infrastructure to accommodate their own freight growth projections, which result in comparable or worse statistics for freight transportation in the RTC model.[6] To recap, the 22.7% increase in delays predicted by the RTC study from the restoration of the *Gulf Coast* service comes out to just 18.9 minutes per 100 train miles.[7] Furthermore, the RTC study's predicted 4.5% reduction in velocity comes out to a reduction of only 0.7 miles per hour.[8] Meanwhile, CSX and NS predict that their own freight growth (without Amtrak service) will cause additional delays of 18.3 minutes per 100 train miles and a 1.3 mile-per-hour reduction in velocity.[9] Such minimal impacts are well within CSX and NS's own standard operating fluctuations.[10] It is simply not credible that the impacts of additional Amtrak service require half-a-billion dollars in new infrastructure to mitigate when the host railroads' own growth does not.

1. The FRA Improvements Further Minimize Any Impact from the *Gulf Coast* Service.

As the supplemental modeling conducted by CSX and NS confirms, the impacts discussed above are even further reduced by the Federal Railroad Administration ("FRA")-identified infrastructure projects that Amtrak agrees to support after restoration of the *Gulf Coast* service. As an initial matter, the fact that CSX and NS did not even know before filing their supplemental

[5] *See* Supp. Verified Statement ("VS") of Crowley & Fapp.
[6] Amtrak Supp. Br. at 18-19.
[7] *Id.* at 18.
[8] *Id.*
[9] *Id.* at 19.
[10] *Id.* at 6-8.

brief that some of those FRA projects have been completed shows that CSX and NS have never been serious about working with Amtrak to restore service.[11] Moreover, CSX and NS's claims that the FRA projects will address only "half the degradation to freight service" are overblown, because there is no real "degradation to freight service."[12] When converted from percentages to actual numbers expressed in minutes and miles per hour, CSX and NS's own RTC model predicts that after introduction of Amtrak service and the addition of the FRA projects, CSX and NS's freight transportation will experience an increase of just 8.2 minutes of train delay per 100 miles, and a reduction in velocity of just three-tenths of a mile per hour (from 14.8 to 14.5 mph), as shown in the following table "restated" from the table provided by CSX and NS:[13]

Restated Table 2: 2019 Impairment with Passenger Trains and FRA Identified Projects

% Change in Modeled Freight Train Delay / 100 Train Miles 1/		% Change in Modeled Freight Train Speed 2/		% Change in Dispatching Conflicts 3/		% Change in Delay to Other New Orleans Railroads 4/		% Change in In Recrews 5/	
83.1		14.8		7,727		29,727		273.00	
91.3	↑	14.5	↓	10,083	↑	37,164	↑	355.00	↑
9.9%		-1.9%		30.5%		25.0%		30.0%	

1/ Average delay in minutes per train from 30 simulations.
2/ Average miles per hour per train from 30 simulations.
3/ Average gross RTC conflicts per run from 30 simulations.
4/ Total delay in minutes from 30 simulations.
5/ Total recrews from 30 simulations.

As Amtrak shows in its supplemental filing, considering the natural fluctuations in velocity that CSX and NS experience throughout their networks, these impacts are minimal at best, and certainly do not amount to unreasonable impairment.[14] And that is true both in the aggregate and

[11] CSX and NS Supp. Br. at 22-23.
[12] *Id*. at 34.
[13] CSX and NS Supp. Br. at 24, Table 2. The title and column headings of all of the tables restated herein were provided by CSX and NS. Amtrak does not agree with CSX and NS's characterization of impacts as "impairment."
[14] Amtrak Supp. Br. at 6-8.

on a train-by-train basis. As Amtrak has previously explained, reporting percentage changes without also reporting the underlying statistics that produced the reported percentage changes can lead to false impressions about the severity of impacts, because the percentage changes are presented without context.[15] Amtrak thus provides such context on the following pages, and more fully in the Supplemental Reply Verified Statement of Messrs. Crowley and Fapp and Exhibit 13 of that Verified Statement, which is appended hereto.

For example, just looking at CSX "through" trains, when CSX and NS's Table 3 and Table 4[16] are converted from percentages into real numbers, the restated tables on the following pages show that Amtrak service is predicted to cause delays for CSX through trains ranging from a low of just 2.3 minutes per 100 train miles (for train "CSXT A") to a high of just 34.1 minutes per 100 train miles for ("CSXT F"). With the FRA improvements, those numbers improve to "CSXT A" now improving its performance by 1.6 minutes better than before Amtrak service was added, and "CSXT F" having just 19.6 minutes of delay per 100 train miles.

Another example is to look at the Port trains (the "TASD" rows in Restated Tables 3 and 4). After Amtrak service is reintroduced and the FRA improvements are factored in, the TASD trains experience no reduction in speed whatsoever, no change in variability whatsoever, and only an 11.2-minute increase in delay per 100 train miles (which, as explained *infra*, is still exaggerated, because the TASD trains do not travel anywhere close to 100 train miles on CSX track).

These restated tables showing the impact of the FRA improvements confirm Amtrak's findings presented in both the Supplemental Verified Statement of Thomas D. Crowley and Daniel L. Fapp of L. E. Peabody & Associates, Inc. and their Supplemental Reply Verified Statement

[15] Joint Ex. 31, Amtrak Reply, at 20-21.
[16] CSX and NS Supp. Br. at 25-26.

attached here: that of all of the infrastructure proposals that have been offered in this proceeding, the FRA-recommended infrastructure improvements that Amtrak supports have the most beneficial impact on freight train performance statistics, assuming no other changes in Amtrak, CSX, or NS operations.[17]

[17] Supp. Reply VS of Crowley & Fapp at 3; *see id.* at 9-15 (evaluating FRA improvements against infrastructure improvements demanded by CSX and NS).

Restated Table 3: Freight Train Impairment with Passenger Trains

	TRAIN PROFILE	2019 No Passenger Delay	2019 with Passenger Delay	CHANGE IN DELAY/100	% CHANGE IN DELAY/100	2019 No Passenger Speed	2019 with Passenger Speed	CHANGE IN SPEED	% CHANGE IN SPEED	2019 No Passenger Variability	2019 with Passenger Variability	CHANGE IN VARIABILITY	% CHANGE IN VARIABILITY
CSX Local Trains	CSXT 1	139.2	127.6	-11.5	-8.3%	6.7	6.7	0.0	0.5%	13.1	13.6	0.4	3.3%
	CSXT 2	153.6	341.5	187.9	122.4%	8.2	6.6	-1.7	-20.4%	101.3	107.0	5.7	5.6%
	CSXT 3	170.6	280.8	110.2	64.6%	4.5	4.1	-0.4	-8.3%	91.4	117.6	26.1	28.6%
	CSXT 4	38.7	79.9	41.2	106.5%	18.2	16.2	-2.1	-11.3%	28.6	46.8	18.1	63.3%
	CSXT 5	66.5	103.0	36.4	54.7%	12.3	11.5	-0.8	-6.6%	69.8	66.7	-3.1	-4.4%
	TASD	316.0	422.2	106.2	33.6%	4.7	4.4	-0.4	-7.8%	28.1	34.4	6.2	22.1%
	CSXT LOCAL TOTAL	91.6	133.3	41.6	**45.4%**	10.4	9.7	-0.7	**-6.9%**	186.5	211.5	25.0	13.4%
CSX Through Trains	CSXT A	45.9	48.2	2.3	4.9%	19.6	19.5	-0.1	-0.7%	112.1	119.9	7.8	7.0%
	CSXT B	58.2	64.2	6.0	10.3%	21.8	21.4	-0.4	-1.9%	127.0	137.4	10.4	8.2%
	CSXT C	48.6	51.6	3.0	6.1%	24.3	24.0	-0.3	-1.4%	107.5	119.0	11.5	10.7%
	CSXT D	38.3	58.8	20.5	53.7%	26.5	24.2	-2.3	-8.6%	109.1	148.9	39.8	36.5%
	CSXT E	58.3	79.7	21.4	36.7%	22.3	20.7	-1.7	-7.4%	94.2	98.9	4.7	5.0%
	CSXT F	45.3	79.4	34.1	75.2%	21.6	19.2	-2.3	-10.8%	96.0	122.1	26.1	27.2%
	CSXT G	45.3	54.0	8.8	19.4%	21.2	20.4	-0.7	-3.5%	146.2	156.8	10.6	7.2%
	CSXT H	48.9	63.6	14.8	30.3%	24.1	22.8	-1.4	-5.8%	100.7	90.9	-9.8	-9.7%
	COAL	75.6	96.0	20.3	26.9%	17.2	16.2	-1.0	-5.5%	112.4	129.8	17.4	15.5%
	CSXT THROUGH TOTAL	48.3	60.8	12.5	**25.9%**	21.6	20.7	-0.9	**-4.4%**	334.7	356.4	21.6	6.5%
NS Trains	NSR A	17.8	13.6	-4.2	-23.5%	7.1	7.1	0.0	0.0%	11.2	10.3	-1.0	-8.5%
	NSR B	22.2	26.3	4.2	18.8%	17.7	17.5	-0.2	-1.1%	7.2	8.7	1.5	21.3%
	NSR C	10.0	11.9	1.9	19.1%	7.4	7.4	0.0	-0.3%	9.6	10.5	0.8	8.5%
	NSR D	511.7	562.7	51.0	10.0%	5.4	5.1	-0.2	-4.3%	33.8	56.8	23.1	68.3%
	NSR E	256.6	323.3	66.7	26.0%	4.5	4.3	-0.2	-4.9%	78.0	82.8	4.7	6.0%
	NSR F	234.0	199.9	-34.1	-14.6%	3.8	3.8	0.1	1.9%	47.3	44.1	-3.2	-6.8%
	NSR G	169.5	234.1	64.5	38.0%	3.5	3.4	-0.1	-3.7%	100.4	117.8	17.4	17.3%
	NSR H	325.7	281.3	-44.4	-13.6%	3.7	3.8	0.1	3.2%	94.6	105.7	11.1	11.8%
	INTERCHANGE	396.4	439.8	43.4	10.9%	6.7	6.4	-0.3	-4.3%	67.4	72.2	4.8	7.1%
	NSR TOTAL	438.7	471.1	32.4	**7.4%**	4.4	4.3	-0.1	**-2.3%**	152.1	156.9	4.8	3.2%
	OVERALL	**83.1**	**102.0**	**18.9**	**22.7%**	**14.8**	**14.1**	**-0.7**	**-4.5%**	**287.9**	**306.7**	**18.9**	**6.6%**

Restated Table 4: 2019 Freight Train Impairment with Passenger Trains and FRA Identified Projects

	TRAIN PROFILE	2019 No Passenger Delay	2019 with Passenger Delay	CHANGE IN DELAY/100	% CHANGE IN DELAY/100	2019 No Passenger Speed	2019 with Passenger Speed	CHANGE IN SPEED	% CHANGE IN SPEED	2019 No Passenger Variability	2019 with Passenger Variability	CHANGE IN VARIABILITY	% CHANGE IN VARIABILITY
CSX Local Trains	CSXT 1	139.2	174.1	34.9	25.1%	6.7	6.5	-0.1	-2.0%	24.8	13.1	11.6	88.6%
	CSXT 2	153.6	235.0	81.4	53.0%	8.2	7.6	-0.6	-7.4%	98.1	101.3	-3.1	-3.1%
	CSXT 3	170.6	225.2	54.6	32.0%	4.5	4.5	0.0	-0.2%	102.9	91.4	11.4	12.5%
	CSXT 4	38.7	55.0	16.3	42.1%	18.2	17.3	-0.9	-4.9%	42.0	28.6	13.4	46.8%
	CSXT 5	66.5	59.7	-6.9	-10.3%	12.3	12.6	0.2	1.8%	41.0	69.8	-28.7	-41.2%
	TASD	316.0	327.2	11.2	3.6%	4.7	4.7	0.0	-0.8%	28.1	28.1	0.0	0.0%
	CSXT LOCAL TOTAL	91.6	107.9	16.2	**17.7%**	10.4	10.2	-0.2	**-2.0%**	186.5	194.8	-8.3	-4.2%
CSX Through Trains	CSXT A	45.9	44.2	-1.7	-3.8%	19.6	19.7	0.1	0.5%	112.2	112.1	0.1	0.1%
	CSXT B	58.2	59.6	1.4	2.4%	21.8	21.6	-0.2	-0.9%	136.9	127.0	9.9	7.8%
	CSXT C	48.6	55.0	6.3	13.0%	24.3	23.7	-0.6	-2.5%	138.9	107.5	31.3	29.1%
	CSXT D	38.3	52.7	14.5	37.9%	26.5	24.8	-1.7	-6.2%	135.4	109.1	26.3	24.1%
	CSXT E	58.3	62.2	3.9	6.8%	22.3	22.0	-0.3	-1.4%	94.3	94.2	0.2	0.2%
	CSXT F	45.3	64.9	19.6	43.2%	21.6	20.1	-1.5	-7.0%	126.2	96.0	30.2	31.5%
	CSXT G	45.3	51.3	6.0	13.3%	21.2	20.6	-0.6	-2.6%	175.9	146.2	29.7	20.3%
	CSXT H	48.9	53.1	4.2	8.6%	24.1	23.7	-0.4	-1.7%	98.9	100.7	-1.8	-1.8%
	COAL	75.6	84.7	9.0	11.9%	17.2	16.8	-0.4	-2.6%	114.5	112.4	2.1	1.8%
	CSXT THROUGH TOTAL	48.3	54.1	5.8	**12.1%**	21.6	21.1	-0.5	**-2.2%**	334.7	346.8	-12.1	-3.5%
NS Trains	NSR A	17.8	14.4	-3.4	-18.9%	7.1	7.1	0.0	0.0%	10.3	11.2	-0.9	-7.9%
	NSR B	22.2	25.5	3.3	15.0%	17.7	17.7	0.0	-0.2%	7.8	7.2	0.6	7.7%
	NSR C	10.0	8.8	-1.2	-12.1%	7.4	7.5	0.0	0.7%	9.1	9.6	-0.5	-5.7%
	NSR D	511.7	568.6	56.8	11.1%	5.4	5.1	-0.3	-4.7%	59.6	33.8	25.9	76.6%
	NSR E	256.6	308.3	51.7	20.2%	4.5	4.3	-0.2	-3.8%	80.7	78.0	2.7	3.4%
	NSR F	234.0	227.5	-6.5	-2.8%	3.8	3.7	0.0	-0.3%	49.8	47.3	2.5	5.2%
	NSR G	169.5	234.2	64.7	38.2%	3.5	3.4	-0.1	-3.4%	118.1	100.4	17.7	17.7%
	NSR H	325.7	289.0	-36.7	-11.3%	3.7	3.8	0.1	2.7%	104.6	94.6	10.0	10.5%
	INTERCHANGE	396.4	400.2	3.8	1.0%	6.7	6.7	0.0	-0.1%	66.1	67.4	-1.3	-1.9%
	NSR TOTAL	438.7	453.7	15.0	**3.4%**	4.4	4.3	0.0	**-0.9%**	152.1	156.1	-4.0	-2.6%
OVERALL		**83.1**	**91.3**	**8.26**	**9.9%**	**14.80**	**14.52**	**-0.28**	**-1.9%**	**287.71**	**296.82**	**-9.11**	**-3.1%**

In short, CSX and NS's own supplemental modeling validates Amtrak's position that the additional *Gulf Coast* trains can be restored without half-a-billion dollars in infrastructure improvements, and that the remaining FRA projects can be phased in after Amtrak's trains are added and operating.[18]

2. Operational Changes Are Superior to CSX and NS's Proposed Infrastructure Improvements.

As discussed more fully below, CSX and NS have the burden to show unreasonable impairment to freight transportation; nothing in the governing statute requires that *all* impacts of Amtrak service must be mitigated. Nonetheless, Amtrak's supplemental RTC modeling, performed by Messrs. Crowley and Fapp, identifies five reasonable operating changes that, when made to the model, effectively mitigate all impacts from reinstating the *Gulf Coast* service. These changes include: (1) eliminating hi-rail movements of bridge tenders from automating movable bridges; (2) rescheduling planned maintenance outages away from times of peak rail operations; (3) rescheduling freight train operations to eliminate interfering with scheduled *Gulf Coast* service; (4) allowing freight trains to better utilize yard infrastructure to receive inbound freight trains; and (5) adjusting the restriction for at-grade highway crossings to reflect CSX's actual real-world operations.[19] Messrs. Crowley and Fapp demonstrate both the individual and cumulative impact of each of these changes in rail operations in their Supplemental Verified Statement.[20] Their analysis makes clear that effectively all impacts of the *Gulf Coast* service can be mitigated with

[18] CSX and NS offer a Supplemental Engineering Cost Assessment Report from Mr. Ted Niemeyer of V3 Companies estimating the cost of the FRA-recommended infrastructure improvements as between $193 million and $210 million in 2021 dollars. *See* Supp. Reply VS of Banks & Guthrie, App. B at 2. Amtrak reserves all rights to contest these estimated costs at a future date but has not done so here given Amtrak's position that there is no unreasonable impairment of freight operations and therefore no mitigation measures are required prior to the Board ordering that *Gulf Coast* service can restart.

[19] Amtrak Supp. Br. at 11-12; Supp. VS of Crowley & Fapp at 5-6, 17-29.

[20] *Id.*

reasonable operational changes, and that CSX and NS's demands for infrastructure are unsupported.[21]

CSX and NS fail to rebut these conclusions. In their supplemental RTC modeling, CSX and NS consider just three potential operational changes: (1) modifying freight schedules; (2) reducing train lengths; and (3) modifying movable bridge operations. As to the first, CSX and NS claim they could not identify any changes to freight operating schedules that would improve freight operations after the restoration of *Gulf Coast* service.[22] However, as demonstrated in the Supplemental Verified Statement of Messrs. Crowley and Fapp, adjusting the departure times for certain freight trains *does* improve average freight train speeds and reduce freight train delays. Specifically, Messrs. Crowley and Fapp identified freight schedule adjustments that increased average freight speeds from 14.7 mph to 15.2 mph, and reduced delay per 100 train miles from 88.2 minutes to 74.3 minutes after Amtrak service is introduced.[23]

As to the operational changes CSX and NS did test—reducing train lengths and modifying movable bridge operations—CSX and NS looked at these modifications only on an individual, rather than on a cumulative, basis.[24] Considering these potential operational changes in isolation, and never considering their cumulative impact—as Amtrak does in the Supplemental Verified Statement of Messrs. Crowley and Fapp[25]—CSX and NS argue that these operational changes are insufficient to mitigate the impacts from Amtrak service.[26] However, as the Supplemental Verified Statement of Messrs. Crowley and Fapp demonstrates, proposed operational solutions can build

[21] *Id.*
[22] CSX and NS Supp. Br. at 36-37.
[23] *See* Supp. VS of Crowley & Fapp at 22-23, 26.
[24] CSX and NS Supp. Br. at 38-48.
[25] Supp. VS of Crowley & Fapp at 26; *see also* Supp. Reply VS of Crowley & Fapp at 18.
[26] CSX and NS Supp. Br. at 38-48.

upon each other to mitigate impacts.[27] Moreover, although CSX and NS ultimately argue that there is "no benefit from reducing freight train lengths" and "no meaningful mitigation from assuming changes in moveable bridge operations,"[28] their own RTC model shows that each of these operational changes generally improves the reported RTC statistics for freight performance as much or more than any one of the infrastructure projects proposed by CSX and NS.[29]

For example, CSX and NS report that running shorter freight trains provides only a 0.2% increase in freight train speed, which they consider a negligible improvement not worth making.[30] Yet, CSX and NS have demanded multiple infrastructure improvements, such as the NS Terminal Improvements, the Claiborne Double Track, the Nicholson Siding Extension, the Beauvoir Double Track, the Fountainbleau Siding, the Bayou Cassotte Turnouts, and the Brookley Siding Extension, which are estimated to cost hundreds of millions of dollars, and yet each produces approximately the same effect on mitigating decreases in freight train speed when introduced into the RTC model.[31] This is an absurd result: CSX and NS reject an *operational* change that produces marginal benefits as measured by RTC, but claim that it is necessary to make an *infrastructure* change that produces the same or very similar marginal benefits.

The Port's arguments on this score fare no better. The Port offers nothing in terms of potential operational changes that would mitigate the effect of adding Amtrak trains. The Port argues that it is unable to suggest operational changes because it is heavily dependent on CSX dispatching decisions.[32] But that dependence remains the same regardless of whether Amtrak

[27] Supp. VS of Crowley & Fapp at 26; *see also* Supp. Reply VS of Crowley & Fapp at 18.
[28] CSX and NS Supp. Br. at 2.
[29] Supp. VS of Crowley & Fapp at 26.
[30] CSX and NS Supp. Br. at 40.
[31] *See* Supp. VS of Crowley & Fapp at 41 (showing impact on freight train speed for each infrastructure improvement demanded by CSX and NS).
[32] Port Supp. Br. at 2-3. The Port also argues that it cannot make operational adjustments because of customer demands, but the Port has not provided any supporting evidence. On the contrary, the Port appears unwilling even to

service is restored.[33] In all events, the impacts that the RTC model predicts for TASD trains from the additional Amtrak trains are minimal, with a reduction in average speed of just 0.4 miles per hour (from 4.7 to 4.4 mph).[34]

Moreover, because the RTC model reports delays on a normalized delay time per 100 train-mile basis, the delay numbers that the Port claims will cause unreasonable impairment to TASD trains are particularly misleading.[35] The TASD trains included in the CSX/NS RTC model only traveled an average of 3.4 miles on CSX track.[36] This means that the TASD reported delay statistics are inflated by a factor of approximately 30.[37] When these delay statistics are viewed on a per-train basis, the delays to TASD trains after the reintroduction of *Gulf Coast* service are just 3.6 minutes per train.[38] That cannot possibly be an unreasonable impairment under Section 24308(e). Further, as discussed above, when FRA projects are layered in, there is virtually no impact at all upon TASD trains from the restoration of Amtrak service.[39] Thus, even if the Port

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inquire whether customers will be affected by *Gulf Coast* service. *See, e.g.*, Golden Supp. VS at 5 ("TASD's customers will have little patience with TASD if we were to tell them that their service requirements must adapt to account for Amtrak."). Furthermore, while the Port identifies a handful of scheduling constraints, it provides no evidence to show that those constraints will result in unreasonable impairment, and the Port acknowledges that it has not offered any evidence from customers regarding adverse impacts. Port. Supp. Br. at 5-6. In any event, the suggestion that TASD has no operational flexibility is belied by record evidence concerning TASD's response to existing operational constraints. *See* Amtrak Supp. Br. at 20-22.

[33] Amtrak does not argue that the Port should operate on a fixed schedule. The Supplemental Verified Statement of Mr. Robert Golden thus attacks a straw man in remarking that Port operations are not and cannot be set to a fixed schedule. *See* Supp. VS of Golden at 3-4.

[34] Restated Table 3, *supra* at 7. Note that the figures included in the restated tables may not sum due to rounding.

[35] *See* Hr'g Tr. at 3533.

[36] Supp. Reply VS of Crowley & Fapp at 22.

[37] *See id.* at 20 (100 miles / 3.4 miles = 29.4 normalization factor).

[38] *See id.* at 21-22 (providing minutes of delay per train for all trains in the RTC model that travel less than 25 miles and finding that only one train traveling less than 25 miles would see average delays increase by more than 15 minutes after the restoration of *Gulf Coast* service and that most trains would see additional delays of less than 10 minutes or actual reductions in delay time).

[39] Restated Table 4, *supra* at 8. Under the circumstances, it is not surprising that some or all Port customers did not provide evidence in support of the Port's brief because either they were not certain about how service would be impacted or because they needed to be (and apparently were not) convinced about service decline. *See* Port. Supp. Br. at 6.

were one of the "rail carriers" whose freight transportation the Board must consider under Section 24038(e)—and it is not—the Port has not shown unreasonable impairment.

3. The RTC Model in this Case is Not Reliable Evidence and the Board Should Not Use It as the Standard to Measure Unreasonable Impairment.

At the Board's request, Amtrak used CSX and NS's RTC model to address the Board's questions, but Amtrak stands by its criticisms of that model, and the Board should reject CSX and NS's failed attempts to rehabilitate their RTC model. In response to Amtrak's argument and evidence showing that CSX and NS did not provide the required support for the train counts used in their RTC modeling, CSX and NS now provide a Supplemental Verified Statement from Hannah Rosse and Holly Sinkkanen, in which Ms. Rosse and Ms. Sinkkanen—for the first time—attempt to document the source of all of the trains in the RTC model.[40] Amtrak asked CSX and NS for this documentation in November 2021, and was told at that time that "there is no formula, document, or workpaper that captures the iterative process between the RTC Modelers and CSXT with respect to creating the .TRAIN file,"[41] and therefore Amtrak must simply trust that the train count in the RTC model was correct. Nine months later, CSX and NS finally have attempted to provide the information Amtrak requested. Yet even now, CSX and NS still cannot trace over half of the trains included in their RTC model to anything other than undocumented conversations with field personnel, or to correlating undocumented train movements with actual train movement data.[42] For the reasons explained in full in the Supplemental Reply Verified Statement of Thomas D. Crowley

[40] *See* Joint Ex. 31, Amtrak Reply, at 24-25; Joint Ex. 31X, Reply VS of Crowley & Fapp, at 15-17 (detailing hundreds of trains unsupported by source data).

[41] Joint Ex. 31Y, Letter from M. Warren to K. Bracey at 4.

[42] NS still can only account for 250 of the 500 trains in the model through verifiable data provided in this proceeding, and CSX still can identify only 556 of the 1,258 CSX trains with verifiable data. Supp. Reply VS of Crowley & Fapp at 36.

and Daniel L. Fapp of L. E. Peabody & Associates, Inc., the Board should decline to consider or credit this late-filed evidence.[43]

Moreover, this proceeding has demonstrated that RTC modeling is not the "gold standard" to measure unreasonable impairment,[44] and the Board should not establish it as such. The Board retains its authority to consider all relevant evidence, and the statute at issue does not contemplate (let alone compel) reliance upon any one methodology or form of proof. Indeed, this case demonstrates the dangers of overreliance on RTC. While performing supplemental modeling over the last month, it was discovered that the parties reached slightly different answers because CSX and NS were using an older version of the RTC software, which does not include the manufacturer's most recent updates.[45] The Board's ruling in this case should not turn on a battle of RTC experts; it should be decided on the basis of CSX and NS's failure to meet their statutory burden of proof.

B. CSX Has Not Shown Adverse Impacts on Customers.

CSX and NS still fail to show that the additional Amtrak trains would cause "serious adverse impacts" to their businesses, even after several rounds of briefing and an eleven-day evidentiary hearing. No customer has said that 18 minutes of delay or seven-tenths-of-a-mile reduction in speed will make any difference to them. Nor has any shipper said that it would seek alternative means of shipping if Amtrak trains are added. Even the Port admits that "the RTC modeling (even if undertaken without incident or dispute) simply does not, and cannot,

[43] *See id.* at 34-49 (analyzing information provided by Rosse and Sinkkanen).

[44] Hr'g Tr. at 28, 35 (CSX/NS Opening Statement); 189 (Banks); 850 (Hunt); 2309 (Guthrie).

[45] *See* S. Laudone Email to J. Amunson and K. Bracey (Aug. 15, 2022) (on file with Amtrak) ("Our experts have found that some of the RTC cases in Amtrak's supplemental evidence either do not run at all or they run but provide different results. We believe this is caused by how the RTC developer rolls out modifications to the program. All parties are using the same RTC version (75T), but the developer sometimes makes improvements to RTC without changing the version. Therefore, if one modeler downloads RTC 75T on January 15 and another modeler downloads RTC 75T on June 15, a case ran on those two 'versions' of RTC 75T may yield different results (or not work at all).").

demonstrate with much detail precisely how a given TASD service would suffer, and how consistently such adverse impacts would arise."[46]

The Board asked the parties to provide information about actual impacts on customers from the additional Amtrak trains.[47] Amtrak was rebuffed in its discovery requests to CSX about actual customer impacts, but Amtrak nonetheless attempted to respond to the Board's questions by using CSX's own customer switch data ("CSD") to measure run times and arrival windows for CSX local trains against CSX's own assessment of what constitutes 100% CSD performance. Amtrak found that after adding its trains, the RTC model predicted that CSX local trains would still complete their runs faster than those that CSX counted in real life as achieving 100% CSD performance.[48]

CSX and NS fail to provide any actual customer impact information. They instead offer an analysis of "recrew" rates, and then simply assert that additional recrews will result in "devastating results on service to freight customers."[49] This "recrew" analysis does not show the impact on any individual customers along the Gulf Coast line. As Messrs. Crowley and Fapp attest, the proper way to test the impact on individual customers is to compare the historic service to individual customers along the route, and then to compare that service after the reintroduction of Amtrak *Gulf Coast* service developed by the RTC model.[50] This is the approach that the Board takes in its maximum reasonable rate cases based on stand-alone costs to determine if the proposed hypothetical railroad will provide the same level of service as the incumbent railroad.[51]

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[46] Port Supp. Br. at 6.
[47] *See* Hr'g Tr. at 4050-51.
[48] Supp. VS of Johanson & Mussanov at 14.
[49] Banks & Guthrie Supp. VS at 15.
[50] Supp. Reply VS of Crowley & Fapp at 29.
[51] *See, e.g., Public Service Co. of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Ry. Co.*, NOR 42057, slip op. at 20-21 (S.T.B. served June 8, 2004); *Consumers Energy Co. v. CSX Transportation, Inc.*, NOR 42142, slip op. at 35-36 (S.T.B. served Jan. 11, 2018, updated March 14, 2018).

As Messrs. Crowley and Fapp state, CSX and NS's RTC model in this proceeding is inconsistent with prior RTC submittals to the Board, which typically include trains to specific customers along a route.[52] Here, CSX and NS do not model actual trains moving to specific customers along the New Orleans to Mobile line of service.[53] Therefore, individual impact cannot be determined for the vast majority of customers along the route. As Messrs. Crowley and Fapp state, based on information presented in prior Board cases, it is clear that CSX and NS have the data that they would need to identify the specific trains and railcars moving to their customers along the New Orleans to Mobile network.[54] CSX and NS could have used this data to determine the specific trains included in their RTC cases that delivered specific railcars to CSX customers between New Orleans and Mobile. They chose not to do so.[55] Thus, the Board is left simply to guess at actual customer impacts, or to presume that there are none.

CSX and NS's "recrew" analysis does not provide the Board with any information about customer-related performance. Moreover, their analysis mischaracterizes the effects of recrew events, and the methodology is flawed. As set forth in the Supplemental Reply Verified Statement of Clayton S. Johanson and Darkhan Mussanov of DB E.C.O. North America, Inc. ("DB"), a recrew event is the result of a train crew failing to reach their intended destination within the twelve maximum working hours as defined by federal regulation.[56] Messrs. Johanson and Mussanov note that although the supplemental RTC report characterizes recrew events as "unplanned," in reality,

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[52] Supp. Reply VS of Crowley & Fapp at 29-30.
[53] *See id*.; *see generally* Joint Ex. 31X, Reply VS of Crowley & Fapp.
[54] Supp. Reply VS of Crowley & Fapp at 30.
[55] CSX and NS likewise failed to respond to the Board's request for comparative information on velocity on other lines so that the Board could determine "whether velocity of whatever it is, 20 miles an hour or 14 miles, is or is not reasonable." Hr'g Tr. at 4054. Amtrak provided such information in its supplemental filing and the Supplemental Verified Statement of Messrs. Johanson and Mussanov appended thereto.
[56] Supp. Reply VS of Johanson & Mussanov at 3.

"unplanned" recrew events are relatively rare, and most recrew events are known in advance.[57] Messrs. Johanson and Mussanov found that between 2019 and 2021, the percentage of CSX merchandise trains that needed to be recrewed on the Gulf Coast line increased by a factor of three.[58] This increase took place *without any Amtrak service present on the corridor*. Yet, by mixing together real-world and RTC data, CSX and NS are now erroneously attempting to blame increased recrew events solely on the addition of Amtrak service.

In reality, the root cause of the increase in recrew events is that the working hours of CSX crews on the corridor have lengthened in the past three years, even in the absence of *Gulf Coast* service. The Supplemental Reply Verified Statements of Messrs. Crowley and Fapp, as well as Johanson and Mussanov, explain in detail the multiple problems with the recrew methodology used by CSX and NS.[59] But the bottom line is that this recrew analysis does not answer the Board's inquiry for information about customer impacts, and the Board cannot rely on this recrew analysis as a measure of actual impacts to customers.[60]

II. CSX AND NS'S LEGAL ARGUMENTS ARE BOTH WAIVED AND MERITLESS.

CSX and NS take several novel legal positions in their supplemental filing, many of which are directly contradicted by their prior submissions, statements of counsel, and witnesses. Even assuming that CSX and NS can pursue these new arguments at this stage, the Board should reject each of them, for several reasons: (1) Congress clearly and sensibly placed the burden of proof of demonstrating unreasonable impairment on the host railroads, and Amtrak does not have the burden of persuading the Board as to "reasonable" impairment; (2) Congress established

[57] *Id.* at 7.
[58] *Id.* at 8.
[59] See Supp. Reply VS of Crowley & Fapp at 24-33; Supp. Reply VS of Johanson & Mussanov at 6-9.
[60] Messrs. Johanson and Mussanov also compared the recrew data with their prior analysis of CSD information. They found that for CSX, the number of crew starts necessary to provide 100% CSD is virtually the same as the number of crews to provide less than 100% CSD. *See* Supp. Reply VS of Johanson & Mussanov at 4-5.

unreasonable impairment as a high bar for host railroads to meet; (3) Congress neither directed nor expected that the Board would use the freight railroads' unilateral projections of their own twenty-year growth to assess unreasonable impairment; (4) the *Gulf Coast* service is "additional" service within the meaning of Section 24308(e); and (5) as unrebutted testimony shows, the *Gulf Coast* service is compatible with Amtrak's statutory goal of achieving a systemwide average of 60 miles per hour.

A. CSX and NS's Attempt to Reverse the Burden of Proof Fails.

In the parties' Joint Stipulation of Uncontested Facts and Joint List of Issues to be Decided, filed with the Board on March 28, 2022, all parties—including CSX, NS, and the Port—agreed that in this proceeding, the Board is required to decide the following two issues: First, "What constitutes unreasonable impairment to freight transportation under 49 U.S.C. § 24308(e)(2)(A)?" Second, "Have *the carriers demonstrated* that their freight transportation will be impaired unreasonably by passenger service on the Gulf Coast corridor on the terms proposed by Amtrak?"[61] Thus, CSX and NS repeatedly acknowledged throughout their prior briefing and at the evidentiary hearing that they bear the burden of demonstrating unreasonable impairment to freight transportation under Section 24308(e).[62] CSX and NS now attempt to abandon this admission, and claim that they never had any such burden of proof under the statute. Instead, CSX and NS (joined in part by the Port) now attempt to draw a distinction between what they claim is their burden to

[61] Joint Ex. 67, Joint Stipulation of Uncontested Facts and Joint List of Issues To Be Decided, at 10 (emphasis added). Although the Port now claims that "arriving at a definition of 'unreasonable impairment'" should have been undertaken in a rulemaking rather than through this proceeding, the Port joined this filing and asked the Board to decide these issues. *Cf.* Port Supp. Br. at 5-6.

[62] *See, e.g.,* Joint Ex. 23, CSX and NS Opening, at 46-47 (CSX and NS acknowledging that showing unreasonable impairment is "their burden of proof"); Joint Ex. 40, CSX and NS Rebuttal, at 60 ("Much of Amtrak's reply is dedicated to emphasizing that CSXT and NSR have the burden of demonstrating unreasonable impairment to freight service. That is true enough . . ."); Hr'g Tr. at 39, 40, 41, 53 (CSX counsel repeatedly acknowledging "our burden of proof" to show "unreasonable impairment"); Hr'g Tr. at 2675 (Chairman Oberman acknowledging that CSX and NS "admit that they have the burden of proof").

show *impairment*, and what they claim is Amtrak's "burden of persuading the Board that the anticipated impairment to current and future freight service is *reasonable*."[63] The Board should reject this argument out of hand as waived, based upon CSX and NS's prior representations in this proceeding.[64]

In all events, this argument fails on the merits. CSX and NS's attempted burden-shifting has no basis in the text, structure, or purpose of Section 24308(e). Moreover, CSX and NS's interpretation makes no sense as a practical matter, given that freight railroads are the only parties who have information about their freight transportation activities, and they routinely refuse to share such information with Amtrak.

As Amtrak has previously explained, the statute is straightforward on this question.[65] Congress explicitly put the burden of proof on the freight railroads, stating: "The Board shall consider when conducting a hearing, whether an order would *impair unreasonably* freight transportation of the rail carrier, *with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation*."[66] The statute places no burden on Amtrak.[67] Furthermore, Congress explained exactly why it put the burden on the freight carriers rather than Amtrak: it was because of the "lack of cooperation private freight railroads have demonstrated toward Amtrak," the "intransigence" of freight railroads when Amtrak attempted to

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[63] CSX and NS Supp. Br. at 3 (emphasis added).

[64] *See, e.g., New York v. E.P.A.*, 413 F.3d 3, 20 (D.C. Cir. 2005) (an argument not made in the opening brief is waived); *21st Century Telesis Joint Venture v. F.C.C.*, 318 F.3d 192, 200 (D.C. Cir. 2003) (affirming agency's decision to refuse consideration of supplemental arguments where party offered "no plausible explanation as to why supplemental arguments were not made in an initial petition").

[65] Joint Ex. 31, Amtrak Reply, at 13; Amtrak Supp. Br. at 12.

[66] 49 U.S.C. § 24308(e)(2)(A) (emphasis added).

[67] CSX and NS incorrectly argue that the Administrative Procedure Act ("APA") places the burden on Amtrak in this proceeding. CSX and NS Supp. Br. at 53-54. Even if CSX and NS were correct that this proceeding is governed by the APA (and they are not, for the reasons explained by Amtrak in its filing of December 30, 2021, Joint Ex. 46), their own brief acknowledges that under the APA, the proponent of a rule or order has the burden of proof only when a statute does not "otherwise provide[]" for a different allocation of the burden. *See id.* (citing 5 U.S.C. § 554(d)). Here, the statute "otherwise provides" that the burden of showing unreasonable impairment lies with the freight railroads.

add service, and the demands for "inordinate capital improvements" that freight railroads made as a condition of hosting Amtrak service, often in "protracted arbitration proceedings."[68]

Amtrak's interpretation is also consistent with the overall statutory scheme for passenger rail, which, as Amtrak has previously explained, is premised on the "grand bargain" pursuant to which freight railroads were relieved of the financial responsibility for providing intercity passenger transportation, but only so long as they agree to allow Amtrak to use their facilities to do so.[69] CSX and NS's predecessors agreed to allow Amtrak service on this line. After Hurricane Katrina effectively provided CSX and NS with a windfall of more than fifteen years of operation without any *Gulf Coast* passenger service, the host railroads now consider that windfall an entitlement. They have no right to do so, and this is precisely the opposite of what Congress intended in creating Amtrak, and in setting up procedures for Amtrak to add or modify service under Section 24308(e).

CSX and NS's approach is also unworkable in practice. As this proceeding has shown, host railroads generally refuse to share data with Amtrak about their freight transportation. Yet, CSX and NS argue that, under the statute, Amtrak must somehow assess whether impairments to CSX and NS's freight transportation (about which Amtrak itself has limited information) are "reasonable."[70] CSX and NS also argue that Amtrak should somehow be responsible for anticipating and proposing mitigation measures to address a long-range forecast for growth, which CSX and NS have themselves unilaterally projected.[71] It would be impossible for Amtrak to meet the burden that CSX and NS have urged the Board to adopt, given CSX and NS's position that

[68] H.R. Rep. No. 96-839, at 20-21 (1980); H.R. Rep. No. 96-1041, at 42 (1980).
[69] Amtrak Supp. Br. at 3-4.
[70] CSX and NS Supp Br. at 3.
[71] CSX and NS Supp. Br. at 18-20.

literally "[a]ll documents, data, and information that reflect the movement of trains" on their networks, including "OS data, train profile data, dispatch data, operating plans, and actual train movement data," as well as "any documents that contained analysis or projects of future freight growth" are highly confidential, and cannot be shared with anyone at Amtrak.[72]

Ultimately, CSX and NS's attempt to shift the burden merely highlights their true position: that *any* impact of Amtrak service constitutes unreasonable impairment of freight transportation that Amtrak must mitigate. That is plainly not what Congress established in Section 24308(e), and the Board should reject CSX and NS's attempt to rewrite the statute.

B. Unreasonable Impairment Is a High Bar.

In their prior evidence, CSX and NS concede that the plain meaning of "unreasonable" requires impairment that "exceed[s] the bounds of reason or moderation."[73] CSX and NS now backtrack, and claim that the "term 'reasonable' is not self-defining."[74] They were right the first time. In all events, their reasoning is faulty,[75] since the statute uses the term "*unreasonable*" to describe *their* burden, and nowhere says anything about any burden on Amtrak to prove reasonableness or anything else.

Amtrak's prior filings and supplemental brief explain how the term "unreasonable" has been defined in a variety of contexts, and also point to how the Board has measured "impairment" in the closely analogous trackage rights cases.[76] To be sure, if a freight carrier could show that there simply was not sufficient existing capacity on their line to accommodate any more trains,

[72] Joint Ex. 31ZE, Letter from M. Warren to K. Bracey, at 3.
[73] Joint Ex. 41, CSX and NS Rebuttal, at 13-14; Joint Ex. 49, Amtrak Surrebuttal, at 5.
[74] CSX and NS Supp. Br. at 66.
[75] *See* CSX and NS Supp. Br. at 66-67. CSX/NS's cited authority also contradicts their argument that reasonableness must always be determined on a case-by-case basis. *See Riffin v. Surface Transp. Bd.*, 733 F.3d 340, 347 (D.C. Cir. 2013) (recognizing that a request under 49 U.S.C. § 11101 can be "presumptively reasonable").
[76] Joint Ex. 3, Amtrak Reply, at 18-19; Amtrak Supp. Br. at 14-16.

and that the addition of Amtrak trains would therefore mean the loss of freight trains, that freight carrier may well be able to demonstrate "unreasonable impairment." That is not the case here. CSX and NS have conceded repeatedly that there is sufficient capacity to accommodate Amtrak service.[77] That should end this case.

In all events, even accepting CSX and NS's position that "unreasonable impairment" is about impacts, rather than capacity, Amtrak demonstrates that CSX and NS's position on "unreasonable impairment" cannot possibly be correct. CSX and NS do not believe that their own projected freight growth causes any unreasonable impairment, yet their projected growth results in delay, velocity, and recrew impacts for their freight transportation that are comparable or worse than potential impacts from adding two daily round-trip Amtrak trains.[78]

CSX and NS's reliance on statements at the public hearing does not help them meet their burden of showing unreasonable impairment.[79] Amtrak appreciates the input and engagement of all stakeholders and members of the public in this proceeding, but contrary to CSX and NS's claims, no CSX customer offered any actual evidence of unreasonable impairment. Instead, at the public hearing in February 2022, all of the speakers that CSX references acknowledged in response to questions from the Chair that they had not performed any independent investigation, and were merely repeating what CSX told them about the potential impacts of Amtrak service restoration on their business.[80] In any event, as Amtrak notes in its supplemental filing, many speakers

[77] *See, e.g.*, Joint Ex. 61, CSX and NS Response to Amtrak Surrebuttal, at 4.
[78] Amtrak Supp. Br. at 18-20.
[79] CSX and NS Supp. Br. at 72-75.
[80] *See* February 15, 2022, Hearing on Amtrak Operations in Gulf Coast, *Application of the Nat'l R.R. Passenger Corp. Under 49 U.S.C. § 24308(e)—CSX Transp., Inc. and Norfolk S. Corp.*, FD 36496 (filed Mar. 23, 2022) ("February 15, 2022 Public Hearing"), Tr. at 256-258 (Testimony of Michal Rath, Darling Ingredients) (acknowledging that testimony on potential impairment relied on information provided by CSX and not any independent investigation); Tr. at 263 (Testimony of Steve DiCarlo, Javelin Global Commodities) (same); Tr. at 280 (Testimony of Tom Giovinazzi, Holcim, US) (same); Tr. at 288-289 (Testimony of Alejandro Gutierrez, DAK Americas) (same).

expressed strong support for Amtrak at the public hearing, including the senior United States Senator from the State of Mississippi, the Chair of the House Committee on Transportation and Infrastructure, the Administrator of the Federal Railroad Administration, and numerous other elected officials, industry stakeholders, and members of the public.[81]

C. The Board Should Not Measure Unreasonable Impairment by Freight Railroads' Unilateral Twenty-Year Projections.

CSX and NS also argue that unreasonable impairment must be measured based on their unilateral forecasts of their own growth over twenty years.[82] But the cases that CSX and NS rely upon to make this argument are inapplicable here. The operative statute, Section 24308(e), makes no mention of any requirement to consider future effects, and certainly does not call for the specific twenty-year time horizon urged by CSX and NS. Indeed, while CSX and NS argue that it is an "established rule" that agency decisions must account for future needs, that supposedly "established rule" comes from a case dealing with a statute administered by the Federal Power Commission ("FPC"), which explicitly requires the FPC to consider future needs.[83]

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[81] *See e.g.*, Feb. 15, 2022 Public Hearing Tr. at 6-15 (testimony of U.S. Senator Roger F. Wicker); Tr. at 151-166 (testimony of U.S. Rep. Peter DeFazio, Chair of the House Committee on Transportation and Infrastructure); Tr. at 16-26 (testimony of Amitabha Bose, Administrator of the Federal Railroad Administration, on behalf of the Department of Transportation and Federal Railroad Administration); Tr. at 59-60 (testimony of Jimmy Rafferty, Mayor of Pass Christian, Mississippi); Tr. at 236- 239 (testimony of Michael Silverman, City Manager of Pascagoula, Mississippi); Tr. at 245-248 (testimony of City Councilman Kyle Lewis, City of Bay St. Louis, Mississippi); Tr. at 315-317 (testimony of City Councilmember Betty Sparkman, Pass Christian, Mississippi); Tr. at 89-97 (testimony of Greg White, former Chairman of the Southern Rail Commission); Tr. at 97-105 (testimony of Knox Ross, Chairman of the Southern Rail Commission); Tr. at 106-110 (testimony of John Spain, Vice Chairman of the Southern Rail Commission); Tr. at 72-79 (testimony of John Robert Smith, Chairman of Transportation for America); Tr. at 117-129 (testimony of Jim Mathews, President and CEO of the Rail Passengers Association); Tr. at 240-241 (testimony of Michael Hecht, President and CEO of Greater New Orleans, Inc. on behalf of the Southeast Louisiana SOLA Super Region); Tr. at 298-304 (testimony of Richard Rudolph, Chairman of the Rail Users Network); Tr. at 331-333 (testimony of Julius Mullins, resident of Baton Rouge, Louisiana).

[82] CSX and NS Supp. Br. at 7-20.

[83] *See* 15 U.S.C.A. § 717f(e) (the FPC shall issue a certificate of public convenience and necessity where "the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the *present or future* public convenience and necessity") (emphasis added); CSX and NS Supp. Br. at 8 (citing *City of Pittsburgh v. Fed. Power Comm'n*, 237 F.2d 741 (D.C. Cir. 1956) and *Nat'l Airlines, Inc. v. C.A.B.*, 321 F.2d 380 (D.C. Cir. 1963)).

CSX and NS's reliance on decisions from the Board and federal courts in the preemption context is similarly inapposite.[84] The preemption cases involve situations where real property could be permanently removed from the national railway network through condemnation or adverse possession.[85] Due to the "strong federal policy in favor of retaining rail property in the national rail network, where possible,"[86] a preemption determination involving the permanent conveyance of real property necessarily requires the Board or a federal court to consider whether "any particular part of a right of way may become necessary for railroad uses" in the future.[87] In contrast, Section 24308(e) merely involves additional Amtrak trains over an existing line, and requires no such considerations of permanently removing rail property.

CSX and NS's attempt to draw support for their position from Department of Transportation ("DOT") and Federal Railroad Administration ("FRA") authorities and guidance materials is similarly misplaced. It is unnecessary to rely upon such generally applicable materials, since DOT and FRA have already gone on record in this specific proceeding in support of Amtrak's petition to restore the *Gulf Coast* service.[88] Adding these Amtrak trains is therefore already a specific and explicit part of the federal government's plans and intentions, not just for the rail network as a whole, but for this specific line. DOT/FRA, as the host railroads recognize, will

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[84] CSX and NS Supp. Br. at 9.

[85] *See* CSX and NS Supp. Br. at 9 (citing *Union Pac. R. Co. v. Chicago Transit Auth.*, 647 F.3d 675 (7th Cir. 2011) (condemnation); *14500 Ltd. v. CSX Transp., Inc.*, No. 1:12CV1810, 2013 WL 1088409, at *1 (N.D. Ohio Mar. 14, 2013) (adverse possession); *BNSF Ry. Co. v. City of Moore, Oklahoma*, 536 F. Supp. 3d 1225, 1230 (W.D. Okla. 2021) (condemnation); *14500 Ltd. LLC—Petition for Declaratory Ord.*, FD 35788, slip op. at 4 (S.T.B. served June 5, 2014) (adverse possession); *Skidmore v. Norfolk S. Ry. Co.*, 1 F.4th 206, 214 (4th Cir. 2021) (adverse possession); *City of Lincoln v. Surface Transp. Bd.*, 414 F.3d 858, 862 (8th Cir. 2005) (condemnation); *Jie Ao & Xin Zhou—Petition for Declaratory Ord.*, FD 35539, slip op. at 6 (S.T.B. served June 6, 2012) (adverse possession)).

[86] *Jie Ao & Xin Zhou*, FD 35539, at 7.

[87] *City of Lincoln*, 414 F.3d at 862.

[88] *See* Statement of Administrator Amitabha Bose on Behalf of the United States Department of Transportation and the Federal Railroad Administration (filed Feb. 15, 2022); February 15, 2022 Public Hearing Tr. at 16-26 (testimony of Amitabha Bose, Administrator of the Federal Railroad Administration, on behalf of the Department of Transportation and Federal Railroad Administration); Comments of *Amici* United States Department of Transportation and Federal Railroad Administration (filed Dec. 14, 2021; S.T.B. served Jan. 24, 2022).

ultimately be responsible for administering funds for passenger rail enhancements here, and will be responsible for ensuring that any applicable federal forecasting and fiscal requirements are satisfied. The Board need not undertake that responsibility here.

In all events, the specific twenty-year timeline that CSX and NS claim is a bar to adding Amtrak service now is an arbitrary construct without any basis in the statute. Nothing in Section 24308(e) speaks to any such time horizon. It is of no import to cite to other statutory and regulatory provisions, which apply in other contexts, and which were promulgated decades after Section 24308 was enacted.[89] And even if CSX and NS were correct that their predictions as to what might happen in 2039 are relevant here, Amtrak has previously explained at length that their predicted future impacts are based on an invalid RTC model and unsupported growth assumptions.[90] Amtrak has likewise explained that if the Board wishes to consider future impacts, the Board should consider the fact that CSX and NS do not plan to invest in any infrastructure improvements at all to accommodate their own freight growth over the next twenty years, even though their RTC model shows that this forecasted growth causes the same or worse impacts to freight transportation as does the addition of Amtrak service—for which CSX and NS demand half-a-billion dollars in taxpayer-funded infrastructure improvements.[91] Thus, CSX and NS are simply wrong to claim that their supposed future evidence was "essentially uncontested" by Amtrak.[92]

[89] *See* 23 C.F.R. Part 450 (Effective June 27, 2016).
[90] *See generally* Joint Ex. 31, Amtrak Reply.
[91] Amtrak Supp. Br. at 18-19.
[92] CSX and NS Supp. Br. at 18. Amtrak will not repeat here all of the arguments it has made in this proceeding about the flawed RTC study that is CSX and NS's only proffered evidence of impairment.

D. The *Gulf Coast* Service is "Additional" Service Under Section 24308(e).

Sixteen months after this case began, after losing a motion to dismiss,[93] more than one year of discovery, multiple briefs, and an eleven-day evidentiary hearing, CSX and NS now suggest that "there [wa]s no basis to proceed under subsection (e)," because Amtrak did not show that its application is for "additional" service under the statute.[94] That argument has been waived several times over and in any event, is wrong.

CSX and NS waived any argument that the *Gulf Coast* service does not constitute "additional" service by failing to raise the argument at any point during their case-in-chief.[95] CSX and NS did not raise this argument in their motion to dismiss, opening, or rebuttal. NS, but not CSX, raised this argument for the first time on April 1, 2022 in response to questions raised by the Board, three days before the evidentiary hearing was set to begin.[96] The Board should not allow CSX and NS to impose further delay, to introduce new distractions, and to impede the Board's efforts to resolve this proceeding by raising new theories at this late stage.

Even if it were not waived, CSX and NS's statutory argument fails. As Amtrak explains in its filing of April 1, 2022, all parties have always understood that the proposed *Gulf Coast* service qualifies as "additional" service under Section 24308(e) because Amtrak already has

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[93] The motion to dismiss did not argue that Amtrak was prohibited from proceeding under Section 24038(e). Joint Ex. 3, CSX and NS Mot. to Dismiss.

[94] CSX and NS Supp. Br. at 66.

[95] *See Duke Energy Corp. v. Norfolk S. Ry. Co.*, 7 S.T.B. 89, 101 (2003) ("[The shipper] may not hold back to see the railroad's reply evidence before finalizing or supporting its own case, as an opportunity to correct deficiencies in its opening evidence is not assured."); *Xcel Energy v. BNSF Ry. Co.*, NOR 42057, slip op. at 2 (STB served Apr. 3, 2003) ("[L]ater changes to the complainant's case-in-chief complicate our review of the evidence and impede our efforts to handle these cases in an orderly and timely manner."); *M&G Polymers USA, LLC v. CSX Transp., Inc.*, NOR 42123, slip op. at 9-10 (S.T.B. served Sep. 27, 2012) ("Principles of fairness and the orderly handling of cases require that parties submit their best evidence on opening" and the Board will take action "to prevent a complainant from inappropriately altering its opening evidence on rebuttal by asserting arguments that are in direct conflict with those proffered on opening.").

[96] *Compare* NS Pre-Hearing Brief Addressing the Issues Raised in the Board's March 14 Order (filed Apr. 1, 2022) *and* CSX Pre-Hearing Brief Addressing the Issues Raised in the Board's March 11 Order (filed Apr. 1, 2022).

existing operating agreements with both CSX and NS.[97] Amtrak has tried for years to restore *Gulf Coast* service pursuant to Section 3.2A of Amtrak's Operating Agreement with CSX and Section 3.2 of Amtrak's Operating Agreement with NS, which explicitly govern Amtrak requests for "additional" service.[98] CSX and NS never suggested that the *Gulf Coast* service is not "additional" service. To the contrary, in the parties' January 2020 RTC Study Agreement and Data Sharing Agreement, CSX and NS specifically agreed that the "reintroduction of the Proposed SRC Amtrak Service" was being pursued "in accordance with the terms of Section 3.2A of the CSXT Operating Agreement and Section 3.2 of the NSR Operating Agreement," which govern Amtrak requests for "additional" service.[99]

Moreover, when Amtrak sent letters to CSX and NS on January 27, 2021, formally requesting that CSX and NS agree to Amtrak's restoration of the *Gulf Coast* service beginning on or about January 1, 2022, Amtrak proposed payment terms in accordance with the operating agreements' provisions for "Modified or Additional Service," which state that the proposed payments should "correspond[] to those" provided for initial service.[100] Again, CSX and NS have never disputed that the payment terms for "Modified or Additional Service" are applicable to the *Gulf Coast* route.

CSX and NS selectively cite legislative history to argue that Section 24308(e)'s reference to "additional" trains contemplates only more frequencies on a line on which Amtrak is currently running.[101] That scenario is encompassed within Section 24308(e)'s reference to "additional"

[97] Amtrak's Response to Board Questions, at 1-3 (filed Apr. 1, 2022).
[98] On February 18, 2022, in response to a request from the Board at the prehearing conference, Amtrak filed under seal copies of its operating agreements with CSXT and NS. *See* February 16, 2022 Pre-Evidentiary Hearing Conference, Tr. at 52; Amtrak's Response to the Surface Transportation Board's Request Regarding Compensation Agreements (filed Feb. 18, 2022).
[99] Amtrak's Response to Board Questions at 2.
[100] *Id.* at 2-3.
[101] CSX and NS Supp. Br. at 65.

trains, but it is not Section 24308(e)'s only purpose. As both the text and the legislative history make clear, the statute covers additional service on the lines of any carrier with whom Amtrak already has an existing contract. That is why, in Section 24308(e)(3), the statute directs the Board to decide the dispute under Section 24308(a) only if the parties do not already have "an agreement that establishes the compensation Amtrak will pay the carrier for additional trains."[102] That is also why, in the legislative history, Congress explains that the provision was aimed at "enabl[ing] Amtrak to secure expeditious relief from [freight railroad] intransigence" by allowing "Amtrak to obtain an order from the Secretary permitting the operation of additional passenger trains over the lines of freight railroads *which have contractual agreements with Amtrak*."[103] Congress likewise makes clear that this statute applies to "*any situation* where [Amtrak] is unable to obtain a satisfactory, voluntary agreement from a rail carrier for operation of additional trains on the rail lines of that rail carrier," such that Amtrak can obtain an order that the rail carrier must "permit or provide requested operation of Amtrak trains *over any of its rail lines*."[104]

In short, the *Gulf Coast* service plainly is "additional" service within the meaning of Section 24308(e), and CSX and NS's belated arguments to the contrary should be rejected.

E. The *Gulf Coast* Service Is Compatible with Amtrak's Statutory Goal of Achieving Systemwide Average Speeds of Sixty Miles Per Hour.

CSX and NS incorrectly state that Amtrak "produced no evidence" that the *Gulf Coast* service would be compatible with Amtrak's statutory goal to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.[105] In fact, Amtrak is the *only* party that produced such

[102] 49 U.S.C. § 24308(e)(3).
[103] H.R. Rep. No. 96-839 at 21 (emphasis added).
[104] H.R. Rep. 96-839 at 8 (emphasis added).
[105] CSX and NS Supp. Br. at 59.

evidence, through both the written verified statement and the testimony of Mr. Jim Blair.[106] As Amtrak argues in its supplemental brief, that evidence went completely unchallenged by any party and should be taken as established here.[107]

CSX and NS's belated arguments to the contrary are both legally irrelevant and factually incorrect. As to the legal basis, as Amtrak explains in its supplemental brief, the Board is directed to consider this systemwide-average-speed statutory goal only in connection with "establishing scheduled running times."[108] But in this proceeding, no one has asked the Board to establish scheduled running times because the Gulf Coast line is already timetabled for passenger rail operations at 79 miles-per-hour maximum authorized speed due to the previous Amtrak service on the line. Accordingly, there is no need for the Board to reach this issue, as the "legally permissible operating times" for Amtrak service along the Gulf Coast are already set.[109]

Moreover, CSX and NS misunderstand the purpose of Congress's direction to the Board to consider this systemwide-average-speed goal in connection with "establishing scheduled running times."[110] Congress was concerned that freight railroads would allow additional Amtrak service only on the condition that such passenger service would run extremely slowly. Indeed, that is exactly what NS offers here, as Mr. Randy Hunt testified that the *Gulf Coast* service could be "added now," but only if CSX and NS were permitted to run the service on "a five- to six-hour schedule."[111] Congress intended exactly the opposite, stating that "[t]he schedules for such operation for the additional trains would be at the fastest legally permissive running times."[112]

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[106] Joint Ex. 31C, VS of Jim Blair, at 10; Hr'g Tr. at 3004-05.
[107] Amtrak Supp. Br. at 22-23.
[108] 49 U.S.C. § 24308(e)(2)(B).
[109] *Id.* § 24308(e)(1).
[110] *Id.* § 24308(e)(2)(B).
[111] Hr'g Tr. at 702.
[112] H.R. Rep. 96-1041 at 42.

In all events, CSX and NS are simply wrong that an additional two round-trips—even if, when including all stops, they are initially at an average of approximately 45 miles-per-hour—will have any meaningful impact on Amtrak's statutory goal to implement schedules that attain a *system-wide* average speed of at least 60 miles-per-hour.[113] Furthermore, as Amtrak has repeatedly stated, once the two daily round-trip *Gulf Coast* trains are added, Amtrak will work with CSX and NS on infrastructure solutions, such as the FRA-recommended improvements, that will improve Amtrak's trip-time competitiveness and enhance passenger service reliability.

CONCLUSION

For the above-stated reasons, as well as those set forth in Amtrak's prior submissions and at the evidentiary hearing, Amtrak respectfully requests that the Board order CSX and NS, within 60 days, to allow for the operation of the *Gulf Coast* service on the schedule and terms requested by Amtrak.[114]

August 31, 2022

Respectfully submitted:

/s/ Jessica Ring Amunson

Jessica Ring Amunson
Kali N. Bracey
Alex Trepp
Jenner & Block LLP
1099 New York Ave., NW
Suite 900
Washington, DC 20001
(202) 639-6000
jamunson@jenner.com

Eleanor D. Acheson
Chief Legal Officer, General Counsel
& Corporate Secretary
National Railroad Passenger Corporation
1 Massachusetts Avenue, NW
Washington, DC 20001
(202) 906-3971

Counsel for National Railroad Passenger Corporation

[113] CSX and NS appear to conflate the statute's reference to "system-wide" average speeds with the speed of an individual line.

[114] Amtrak respectfully reiterates its request for a ruling on its pending February 10, 2022 motion (Joint Ex. 50) containing a renewed request for an interim order requiring NS to provide Amtrak with access to NS's rail lines so that Amtrak can begin scheduling crew qualification trains for the Gulf Coast service. As Amtrak explained in that motion, crew qualification will take some time, so an interim order is necessary to ensure that Amtrak employees are prepared to safely and reliably operate the *Gulf Coast* service whenever the Board orders it can commence.

CERTIFICATE OF SERVICE

I, Jessica Ring Amunson, certify that I have this day served copies of this document upon all parties of record in this proceeding, by email on the service list to Finance Docket No. 36496.

August 31, 2022

/s/ Jessica Ring Amunson
Jessica Ring Amunson

EXHIBIT A

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36496	)	**Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308(e) – CSX Transportation, Inc. and Norfolk Southern Corporation**

Supplemental Reply Verified Statement

of

Thomas D. Crowley
President

and

Daniel L. Fapp
Senior Vice President

L. E. PEABODY & ASSOCIATES, INC.
ECONOMIC CONSULTANTS

On Behalf Of

The National Railroad Passenger Corporation

Due Date: August 31, 2022

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LIST OF EXHIBITS[1]

Exhibit No.	Exhibit Description
(1)	(2)
12	Banks/Guthrie Supplemental 2019 RTC Simulation Results from Infrastructure Changes
13	Restated Banks/Guthrie RTC Performance Metrics Tables

[1] Exhibit No. 1 to Exhibit No. 9 were included in our Reply VS, and Exhibit No. 10 and Exhibit No. 11 were included in our Supplemental VS.

I. INTRODUCTION

We are Thomas D. Crowley and Daniel L. Fapp, President and a Senior Vice President, respectively, of L. E. Peabody & Associates, Inc. L. E. Peabody & Associates, Inc. is an economic consulting firm that specializes in addressing economic, transportation, marketing, financial, accounting, operating and fuel supply matters. We are the same Thomas D. Crowley and Daniel L. Fapp that submitted a Reply Verified Statement in Surface Transportation Board ("STB") Docket No. FD 36496, *Application of The National Railroad Passenger Corporation Under 49 U.S.C. § 24308(E) – CSX Transportation, Inc. And Norfolk Southern Corporation* on December 3, 2021 ("Reply VS"), a Surrebuttal Verified Statement on January 28, 2022 ("Surrebuttal VS"), and a Supplemental Verified Statement on July 31, 2022 ("Supplemental VS"). A copy of our credentials was included as Exhibit No. 1 and Exhibit No. 2, respectively, to our Reply VS.

Counsel for Amtrak requested that we review and respond to the Supplemental Verified Statement of Charles H. Banks and Larry R. Guthrie ("Banks/Guthrie Supplemental VS"), the Supplemental RTC Modeling Report included as Appendix A of the Banks/Guthrie Supplemental VS ("Supplemental RTC Report") and the Supplemental Verified Statement of Hannah Rosse and Holly Sinkkanen ("Rosse/Sinkkanen Supplemental VS").

As we indicated in our Reply VS, our Surrebuttal VS, our testimony during the STB Hearings and our Supplemental VS, we did not have the time nor the underlying information to completely correct the many flaws in the Banks/Guthrie RTC simulations.[2] The STB Chairman requested that we use the Banks/Guthrie RTC simulations to address the issues raised by the STB, while acknowledging that we do not accept their validity.[3]

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[2] *See,* Surrebuttal VS at p. 4 and STB Hearings Transcript, April 19, 2022, Thomas D. Crowley at pp. 2757-2758 and May 11, 2022, Daniel L. Fapp at pp. 3519-3520.

[3] *See,* STB Hearings Transcript at pp. 3713-3717.

We reviewed the Banks/Guthrie Supplemental VS, the Supplemental RTC Report and the Rosse/Sinkkanen Supplemental VS, and their associated workpapers and identified several issues with their evidence that are included in this Supplemental Reply Verified Statement ("Supplemental Reply VS").

We discuss our findings below under the following topical headings:

II. SUMMARY OF FINDINGS

The CSXT/NS Supplemental evidence sponsored by Banks/Guthrie and Rosse/Sinkkanen fails to address several of the questions asked by the Chairman of the STB during the April 4, 2022 through May 12, 2022 STB Hearings. As we demonstrate in the remainder of this Supplemental Reply VS, the CSXT/NS Supplemental presentation includes some new evidence and analyses that attempt to support the major gaps in their previous presentations to the STB, but all such analyses fail. Specifically:

1. The STB Chairman specifically requested that Banks/Guthrie present the RTC results of their infrastructure projects on an individual basis. They did not.

    a. We evaluated the infrastructure projects proposed by Banks/Guthrie using the Banks/Guthrie Supplemental RTC model, the Banks/Guthrie 2019 Freight Base Case and the 2019 Passenger Case. The results of this modeling, on both individual and cumulative bases, are shown in Table 1 below.

    b. Table 1 demonstrates that, of the alternatives analyzed, the portfolio of FRA recommended infrastructure improvements has the greatest level of positive impact on freight trains statistics, assuming no other changes in Amtrak, NS or CSXT operations. This is consistent with our Supplemental RTC analyses that showed that the FRA recommended infrastructure improvements had the largest impact on freight train operations after correcting several issues with the Banks/Guthrie Opening RTC cases.

2. Banks/Guthrie developed two (2) RTC cases examining potential operating changes to mitigate the potential impact of reinstated Regional Amtrak service. Banks/Guthrie did not develop RTC cases for other potential operating changes discussed during the STB Hearings and also did not test their two (2) operating changes on a cumulative basis.

3. Banks/Guthrie continue to present their RTC case results only as percentage changes from their underlying RTC Performance Metrics and do not provide context for their presented results. This is misleading about the actual impact on freight traffic of reinstated Amtrak passenger service along the Gulf Coast ("Regional Amtrak") service.

4. The STB Chairman noted that CSXT/NS did not present any information to demonstrate the impact of reinstating Regional Amtrak service on individual freight customers located on the New Orleans – Mobile rail line.

a. In an attempt to respond to the Chairman's requests, Banks/Guthrie present a recrew analysis that they claim demonstrates the impact of reinstated Regional Amtrak service on local shippers. This recrew analysis fails for the following reasons:

   i. Banks/Guthrie did not provide any empirical data that show that an increase in the number of trains operating between New Orleans and Mobile that require a recrew will lead to lower levels of service on the line segment. They instead simply infer that a higher number of recrews is correlated with declining service.

   ii. The Banks/Guthrie recrew analysis does not develop the impact on the individual shippers along the Mobile/New Orleans line segment. Instead, it makes general inferences about potential declines in service as a result of the restoration of Regional Amtrak service.

   iii. The Banks/Guthrie recrew methodology mixes and matches real world transit time data developed under one set of operating rules and constraints against RTC transit time data developed under a different set of operating rules and constraints. This leads to an inappropriate "apples to oranges" comparison.

   iv. The Banks/Guthrie recrew analysis relies upon an unsupported assumption that trains terminating in the Gentilly Yard require 60 minutes of additional work. Banks/Guthrie provided no support for this additional time beyond stating that it is similar to the amount of time required to prepare a train for departure.

   v. The number of recrews for historical trains calculated by Banks/Guthrie in their recrew analysis is considerably higher than the number of recrews that we identified for the same trains in the historical CSXT crew start data provided in discovery.

5. Throughout the many stages of this proceeding, CSXT/NS have failed to provide the required support for the train counts used in their RTC modeling. This critical piece of missing data results in their presentation being unable to be tested and verified and therefore, their results are meaningless.

6. Rosse/Sinkkanen attempt to justify the train counts included in the Banks/Guthrie RTC cases by extending the rhetoric they included in their Rebuttal VS and by developing, for the first time in this proceeding, analyses that try to link their disparate and unconnected data sources to the RTC train counts. However, Rosse/Sinkkanen's analyses and rhetoric do not support their conclusion that all of the RTC trains are justly supported. Specifically:

   a. Rosse/Sinkkanen's Supplemental VS workpapers show that over half of the trains included in the Banks/Guthrie RTC train list are supported only by

undocumented conversations with NS and CSXT field staff, or by correlating undocumented train movements with actual train movement data.

b. For the first time in this proceeding, Rosse/Sinkkanen indicate that the train count for foreign trains moving across the CSXT line at a diamond near Mobile is supported by publicly available FRA crossing inventory information. A review of the FRA data shows that the publicly available information is inconsistent at best, contradictory at worst, and does not support the number of trains included by Banks/Guthrie.

c. Rosse/Sinkkanen assert that finding an example of a movement event for a specific CSXT train profile validates all of the trains included in the Banks/Guthrie RTC cases. However, their own supplemental workpaper shows that of the 444 CSXT yard trains included in the Banks/Guthrie RTC case, they could find support for only 72 yard trains.

d. Rosse/Sinkkanen indicate that because of problems with NS "pseudo data," they relied upon undocumented conversations with NS field personnel and upon dispatch playbacks to verify some train information. Rosse/Sinkkanen's discussion of "pseudo data" is the first time this issue is mentioned in this proceeding, and its undocumented presence helps to negate their argument that we could have used their data to identify Banks/Guthrie's RTC train counts.

e. Rosse/Sinkkanen's discussion of undocumented grain trains operating on NS and their discussion of auto trains moving under different train symbols is further evidence that we could not reconcile RTC train counts with NS data and their claim that we could have made this reconciliation is simply false.

III. BANKS/GUTHRIE ADDITIONAL INFRASTRUCTURE RTC CASES

The Gulf Coast Working Group ("GCWG") Report included a number of projects proposed by the Federal Railroad Administration ("FRA") to improve train operations assuming the reinstatement of Amtrak passenger service along the Gulf Coast ("Regional Amtrak").[4] The FRA proposed projects included adding and extending passing sidings, adding bypass tracks at Gentilly and Bayou Cassotte yards, upgrading speeds on sidings and bridges, turnout improvements and a station track at the Mobile Amtrak station.[5]

Banks/Guthrie indicated in their Opening RTC Report that they modeled the impact of adding some of FRA's proposed infrastructure projects as outlined in the GCWG Report (excluding automating the movable bridges), and that the additional infrastructure did not mitigate the reinstatement of Regional Amtrak trains between New Orleans and Mobile.[6] However, that initial Banks/Guthrie analysis tested FRA's proposed infrastructure only against estimated 2039 traffic levels and not the 2019 base-case traffic levels.[7] During the STB Hearings, the STB requested that the parties test the FRA proposed infrastructure against 2019 traffic levels.[8]

Banks/Guthrie also contended in their Opening RTC Report that because the proposed FRA infrastructure projects did not mitigate the impact to freight trains of the reintroduction of Regional Amtrak service, a different portfolio of infrastructure projects was required.[9] To this end, Banks/Guthrie identified additional infrastructure projects that they indicated are required to

4 *See*, Supplemental VS at p. 30.
5 *See*, GCWG Report at pp. 23-27.
6 *See*, Opening RTC Report at p. 83.
7 *See*, STB Hearings Transcript, May 11, 2022, Daniel L. Fapp at pp. 3713-3714.
8 *See*, STB Hearings Transcript, May 12, 2022, Chairman Oberman at p. 4056.
9 *See*, Opening RTC Report at pp. 39 and 83.

provide the same level of service for projected 2039 freight traffic that would exist without reintroduction of the Regional Amtrak service.[10]

During the STB Hearings, the STB noted that Banks/Guthrie only presented the cumulative results of adding the additional infrastructure that they proposed and did not present the results of the individual additions.[11] The STB requested an examination of the results of adding the Banks/Guthrie infrastructure projects on an individual project basis.[12]

In their Supplemental RTC Report, Banks/Guthrie presented the results of additional cases they developed evaluating the FRA proposed infrastructure projects.[13] Banks/Guthrie explained that they developed four (4) RTC cases evaluating the proposed FRA projects. These included the following:

1. A 2019 FRA case in which they evaluated the full-list of FRA identified infrastructure additions against 2019 traffic levels;[14]

2. A 2039 FRA case in which they evaluated all of the FRA identified additions against 2039 traffic levels;

3. A 2019 Adjusted FRA case in which they tested a subset of the FRA identified additions against 2019 traffic levels;[15] and

4. A 2039 Adjusted FRA case in which they tested a subset of the FRA identified additions against 2039 traffic levels.[16]

While Banks/Guthrie partially responded to the STB's request to model the FRA improvements against the 2019 traffic group, they did not address the STB's request to model the

[10] *See*, Opening RTC Report at p. 39.
[11] *See*, STB Hearings Transcript, May 12, 2022, Chairman Oberman at p. 4052.
[12] *Id.* at pp. 4052 and 4056.
[13] *See*, Supplemental RTC Report at p. 7.
[14] Banks/Guthrie stated that they excluded three (3) projects from the FRA's list of proposed added infrastructure because they were already included in their RTC model. These projects were: (1) the closure of the Old Gentilly Road Crossing; (2) the KCS and CN diamond crossing improvements; and (3) upgrades to bridge miter rails. *See*, Supplemental RTC Report at p. 9
[15] Banks/Guthrie stated that they removed two (2) categories of projects from the FRA proposed infrastructure, including projects that require third-party approval that are outside the control of the Railroads and Amtrak projects that are geographically or technically infeasible to build. *See*, Supplemental RTC Report at p. 10.
[16] *See*, Supplemental RTC Report at p. 9.

individual impact of the FRA recommended improvements. We evaluated the individual and cumulative impacts of the FRA improvements using Banks/Guthrie's Supplemental 2019 Passenger case ("Banks/Guthrie 2019 Passenger Case"). Also, we evaluated the infrastructure projects proposed by Banks/Guthrie in their Opening RTC Report on an individual and cumulative basis against the Banks/Guthrie 2019 Passenger Case.

As we explained in our Supplemental VS, properly testing the impact of a particular change to a model requires holding all other factors constant except the one change being evaluated, and using a single RTC simulation as a base reference point allows us to see the impact of infrastructure changes that may be included in all subsequent RTC simulations.[17]

We began our analyses by identifying the Banks/Guthrie 2019 Passenger Case which produced the best results for freight trains in terms of average speed and dwell times, and used that case as our base case.[18] We made no adjustments to the Banks/Guthrie 2019 Passenger Case with the exception of turning off the randomization function used by Banks/Guthrie. Turning off the randomization function allowed us to test only the impact of the additional infrastructure on the modeled trains.

We then incrementally introduced the FRA identified infrastructure projects and the Banks/Guthrie proposed infrastructure projects in the same manner that we used in our Supplemental VS analyses.

We discuss our Supplemental Reply analyses using the unadjusted Banks/Guthrie 2019 Passenger Case below under the following topical headings:

A. FRA Recommended Track Improvements Against 2019 Traffic Levels
B. Banks/Guthrie Infrastructure Changes

[17] *See*, Supplemental VS at pp 7-9.
[18] We identified Banks/Guthrie 2019 Passenger Case 2019 P R-132 as producing the best results.

A. FRA RECOMMENDED TRACK IMPROVEMENTS AGAINST 2019 TRAFFIC LEVELS

The GCWG Report noted that FRA recommended various upgrades and changes to the rail infrastructure between New Orleans and Mobile that would benefit both the freight operations and the proposed passenger service.[19] As we did in our Supplemental VS RTC cases, we tested the impact of adding all of the FRA recommended infrastructure improvements in a single RTC scenario with two (2) exceptions: (1) the addition of a station track at the Mobile Amtrak station; and (2) the addition of Gentilly Yard bypass track. We took this approach given the level of interest in these two (2) specific infrastructure projects during the STB Hearings.

We discuss all of the FRA proposed improvements below.

1. Impact of Individual and Cumulative Changes

The GCWG Report stated that the FRA's primary changes were to passing sidings along the line segment including replacing No. 15 turnouts with No. 20 turnouts, upgrading track, and extending and adding sidings, i.e., the Harbin Siding Extension and the St. Elmo Siding Extension.[20] The GCWG Report also indicated that FRA identified numerous at-grade roadway crossings that could be closed or upgraded to allow for more efficient use of the passing sidings, i.e., the Theodore Industrial Park Improvements.[21] The GCWG Report also reported that changing the type of miter rails used on the moveable bridges would increase available Train Speeds and help to reduce train delays.

The impact of including the FRA proposed infrastructure projects described above are shown on Table 1, Line B.3 and Line C.13 below. On an individual basis, adding the FRA

[19] *See*, GCWG Report at p. 23.
[20] *See*, GCWG Report at pp. 23-24.
[21] *See*, GCWG Report at p. 25.

recommended turnouts, power crossings and movable bridge improvements increases average Freight Train Speeds by 0.6 mph and decreases Delay per 100 Train Miles by 12.2 minutes over the Banks/Guthrie 2019 Passenger Case (compare Table 1, Line 2 to Line 3). Because this is the first change in the cumulative analysis, the cumulative impact is the same as the individual impact.

Table 1
Amtrak Gulf Coast RTC Simulation Results from
Investment Changes Compared to the Banks/Guthrie 2019 Passenger Case
Freight Trains Only

RTC Case	Average Train Speed	Delay Percentage	Total True Delay Time (hours)	Delay per 100 Train Miles (minutes)
(1)	(2)	(3)	(4)	(5)
A. Base Cases				
1. 2019 Freight Base Case	15.0	23.7%	574.1	76.7
2. 2019 Passenger Base Case	14.3	30.9%	746.6	99.0
B. Individual Impact				
3. FRA Improvements	14.9	27.5%	654.3	86.8
4. Mobile Station	14.3	30.9%	747.4	99.1
5. Gentilly Yard Bypass	14.4	30.2%	729.8	96.8
6. NS Terminal Improvements	14.3	30.7%	742.4	98.5
7. Clairborne Double Track	14.0	32.0%	787.7	104.5
8. Nicholson Siding Extension	14.4	30.6%	738.3	97.9
9. Beauvoir Double Track	14.3	30.9%	746.2	99.0
10. Fountainbleau Siding	14.5	29.3%	707.0	93.8
11. Bayou Cassotte Turnouts	14.4	30.8%	740.7	98.2
12. Brookley Siding Extension	14.3	30.9%	747.1	99.1
C. Cumulative Impact				
13. FRA Improvements	14.9	27.5%	654.3	86.8
14. Mobile Station	14.9	27.6%	657.8	87.2
15. Gentilly Yard Bypass	14.8	28.7%	684.2	90.7
16. NS Terminal Improvements	14.9	27.9%	664.0	88.0
17. Clairborne Double Track	14.6	28.1%	681.4	90.4
18. Nicholson Siding Extension	14.3	31.1%	753.5	99.9
19. Beauvoir Double Track	14.5	28.7%	695.8	92.3
20. Fountainbleau Siding	14.7	27.3%	661.7	87.7
21. Bayou Cassotte Turnouts	14.6	28.2%	679.9	90.2
22. Brookley Siding Extension	14.6	28.7%	692.4	91.8

Source: Exhibit No. 12.

The remaining changes that are summarized in Table 1 above are discussed below.

2. Mobile Station Track

The GCWG Report stated that FRA believed that the reintroduction of Regional Amtrak service would require a place for the Amtrak trains to park in Mobile during the middle of the day when not in use. The GCWG Report recommended that Amtrak construct a 1,000-foot track on the west side of the existing Mobile station platform connected to the main track with a fully signaled and interlocked No. 10 turnout.[22]

The impact of including this additional infrastructure is shown on Table 1, Line B.4 and Line C.14 above. On an individual basis, adding the Mobile Station track has no impact on average Freight Train Speeds and increases Delay per 100 Train Miles by 0.1 minutes when compared to the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the Mobile Station track to the FRA recommended turnouts, power crossings and movable bridge improvements increases average Freight Train Speeds by 0.6 mph and decreases Delay per 100 Train Miles by 11.8 minutes over the Banks/Guthrie 2019 Passenger Case.

3. Gentilly Yard Bypass

The GCWG Report also noted that operations at CSXT's Gentilly Yard frequently block main line tracks running through the yard, which could impact Amtrak passenger operations. To address this issue, FRA recommended that a new, fully signaled bypass track around Gentilly Yard be constructed for passenger trains on the north side of the existing main line for approximately two (2) miles with No. 20 turnouts at each end.[23]

The impact of including this additional infrastructure is shown on Table 1, Line B.5 and on a cumulative basis on Line C.15. On an individual basis, adding the Gentilly Bypass Track increases Freight Train Speeds by 0.1 mph and decreases Delay per 100 Train Miles by 2.2 minutes

[22] *See*, GCWG Report at p. 27.
[23] *See*, GCWG Report at p. 25.

over the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the Gentilly Bypass Tack to the other FRA recommended improvements increases average Freight Train Speeds by 0.5 mph and decreases Delay per 100 Train Miles by 8.3 minutes over the Banks/Guthrie 2019 Passenger Case.

B. BANKS/GUTHRIE INFRASTRUCTURE CHANGES

Banks/Guthrie contended that even with the proposed FRA infrastructure improvements, freight rail operations on the NS and CSXT lines between New Orleans and Mobile in 2019 would decline after the reintroduction of Regional Amtrak passenger service.[24] Banks/Guthrie did not test the impact of adding of the infrastructure projects identified in their Opening RTC cases on an incremental basis.

Because Banks/Guthrie did not undertake this analysis in their Supplemental RTC cases, we tested the impact of their proposed additional infrastructure on individual and cumulative bases. In other words, we began with the Banks/Guthrie 2019 Passenger Base Case and incrementally added the Banks/Guthrie suggested infrastructure. In this way, the impact that the added infrastructure has on rail operations can be evaluated. Each Banks/Guthrie infrastructure addition that we evaluated is discussed briefly below.

1. NS Terminal Improvements

Banks/Guthrie recommended upgrades and additions to NS's Back Belt line in New Orleans in their Opening RTC Report, including but not limited to, adding two (2) powered crossovers at Terminal Junction, two (2) powered crossovers at New St. Johns Interlocking and one powered crossover and one powered turnout at Elysian Fields. In their Rebuttal RTC Report, Banks/Guthrie also recommended an extension of the NS Freight Lead from 3,000 feet to 12,000

[24] *See*, Supplemental RTC Report at p. 11.

feet. As we explained in our Supplemental VS, we included the additional crossovers in our Supplemental RTC analyses, but excluded the NS Freight Lead extension.[25]

The impact of including this additional infrastructure is shown on Table 1, Line B.6 on an individual basis and Line C.16 on a cumulative basis. On an individual basis, adding the NS Terminal Improvements had no impact on average Freight Train Speeds and decreases Delay per 100 Train Miles by 0.5 minutes over the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the NS Terminal Improvements increases average Freight Train Speeds by 0.6 mph and shows a 11.0 minute decrease in Delay per 100 Train Miles when compared to the Banks/Guthrie 2019 Passenger Case.

2. Clairborne Double Track

Banks/Guthrie proposed expanding the Clairborne Siding into a segment of double track so that the track may be used for the passenger trains to meet and for passenger trains to meet with freight trains.

The impact of including this additional infrastructure is shown on Table 1, Line B.7 on an individual basis and Line C.17 on a cumulative basis. On an individual basis, adding the Clairborne double track decreases average Freight Train Speeds by 0.3 mph and increases Delay per 100 Train Miles by 5.5 minutes over the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the Clairborne double track increases average Freight Train Speeds by 0.3 mph and shows an 8.7 minute decrease in Delay per 100 Train Miles.

3. Nicholson Siding Extension

Banks/Guthrie stated that extending the Nicholson Siding allows for Amtrak trains to move over the siding at higher speeds and reduces Regional Amtrak train delays.

[25] *See*, Supplemental VS at p. 36.

The impact of including this additional infrastructure is shown on Table 1, Line B.8 on an individual basis and Line C.18 on a cumulative basis. On an individual basis, adding the Nicholson Siding extension increases average Freight Train Speeds by 0.1 mph and decreases Delay per 100 Train Miles by 1.1 minutes over the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the Nicholson Siding extension has no impact on average Freight Train Speeds, and shows a 0.9 minute increase in Delay per 100 Train Miles.

4. Beauvoir Double Track

Banks/Guthrie state that extending the current Beauvoir Siding, to effectively become a double main line section of track, allows freight and Regional Amtrak trains to meet without blocking existing at-grade highway crossings for extended periods of time.

The impact of including this additional infrastructure is shown on Table 1, Line B.9 on an individual basis and Line C.19 on a cumulative basis. On an individual basis, adding the Beauvoir double track has no impact on average Freight Train Speeds and has no impact on Delay per 100 Train Miles over the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the Beauvoir double track increases average Freight Train Speeds by 0.2 mph, and shows a 6.8 minute decrease in Delay per 100 Train Miles.

5. Fountainbleau Siding

Banks/Guthrie state that a new Fountainbleau Siding provides a location clear of highway crossings for train meets and allows Regional Amtrak trains to overtake freight trains.

The impact of including this additional infrastructure is shown on Table, Line B.10 on an individual basis and Line C.20 on a cumulative basis. On an individual basis, adding the Fountainbleau Siding increases average Freight Train Speeds by 0.2 mph and decreases Delay per 100 Train Miles by 5.3 minutes over the Banks/Guthrie 2019 Passenger Case. On a cumulative

basis, adding the Fountainbleau Siding increases average Freight Train Speeds by 0.4 mph, and shows a 11.3 minute decrease in Delay per 100 Train Miles.

6. Bayou Cassotte Power Turnouts

Banks/Guthrie stated that adding power turnouts at the Bayou Cassotte Yard will reduce train dwell time on the main line.

The impact of including this additional infrastructure is shown on Table, Line B.11 on an individual basis and Line C.21 on a cumulative basis. On an individual basis, adding the Bayou Cassotte power turnouts increase average Freight Train Speeds by 0.1 mph and decreases Delay per 100 Train Miles by 0.8 minutes over the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the Bayou Cassotte power turnouts increases average Freight Train Speeds by 0.3 mph, and shows an 8.9 minute decrease in Delay per 100 Train Miles.

7. Brookley Siding Extension

Banks/Guthrie state that the Brookley Siding would allow freight trains to hold clear of the CSXT main line if there is congestion in Mobile.

The impact of including this additional infrastructure is shown on Table 1, Line B.12 on an individual basis and Line C.22 on a cumulative basis. On an individual basis, adding the Brookley Siding extension decreases average Freight Train Speeds by 0.1 mph and increases and Delay per 100 Train Miles by 0.1 minutes over the Banks/Guthrie 2019 Passenger Case. On a cumulative basis, adding the Brookley Siding extension increases Freight Train Speeds on average by 0.3 mph and shows a 7.2 minute decrease in Delay per 100 Train Miles.

IV. ADDITIONAL BANKS/GUTHRIE RTC ISSUES

We found other issues with the Banks/Guthrie Supplemental RTC cases and Report that are in addition to not testing the impact of their proposed infrastructure changes in individual RTC cases as requested by the STB. These issues include electing to model only two (2) operational changes individually that they did not even test on a cumulative basis. And, Banks/Guthrie continue to present their RTC statistics only as percentage changes without any context.

Each of these issues is discussed below.

A. BANKS/GUTHRIE OPERATING CHANGE RTC MODELS

Banks/Guthrie state in their Supplemental RTC Report that the STB and other interested parties participating in the STB Hearings suggested that changes to current CSXT operating practices and methods could assist in ameliorating the impact on CSXT freight traffic after the reintroduction of Regional Amtrak service between New Orleans and Mobile.[26] Although many operational changes were discussed during the STB Hearings, Banks/Guthrie chose to model only two (2) potential operating changes: (1) shortening CSXT freight trains operating between New Orleans and Mobile; and (2) adjusting how and when movable bridges open for maritime traffic.[27] Banks/Guthrie claim that neither operational change mitigated the impact of restored Regional Amtrak service.[28]

We reviewed Banks/Guthrie's RTC cases in which they modeled the two (2) operational changes discussed above. We found several peculiarities and inconsistencies with their Supplemental RTC modeling.

[26] *See*, Supplemental RTC Report at Executive Summary.
[27] *See*, Supplemental RTC Report at pp. 19 and 28.
[28] *See*, Supplemental RTC Report at pp. 27 and 30.

First, the Railroads' witnesses claim that they could not identify any changes to freight operating schedules that would improve freight operations after the reintroduction of Regional Amtrak service. Mr. Dingler, who worked with Banks/Guthrie on their RTC cases, noted during the STB Hearings that he could not identify any potential changes to freight schedules that would lead to less time consuming mainline capacity.[29] Similarly, Ms. Rosse stated there were not any instances of freight trains departing at the same time as Regional Amtrak trains that would impose significant conflicts.[30] Mr. Dingler's and Ms. Rosse's statements are inconsistent with the results of our Supplemental RTC cases that found adjusting the departure times for certain freight trains improved average freight Train Speeds and reduced freight train delays over the 2019 Passenger Base Case.[31]

Second, Banks/Guthrie only reviewed two (2) potential operational changes in their RTC Cases, but other operating changes were discussed during the STB Hearing.[32] These other operating changes discussed include, but were not limited to, changing freight schedules, fleeting trains, adjusting maintenance schedules and diverting traffic to different network rail lines.

In our Supplemental RTC cases, we tested five (5) different changes to the operations that Banks/Guthrie included in their Opening RTC.[33] As experienced railroaders and modelers of railroad networks, we would expect Banks/Guthrie to test more than two (2) potential operating changes.

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[29] *See*, STB Hearings Transcript, April 12, 2022, Mark Dingler at pp. 1663-1664.
[30] *See*, STB Hearings Transcript, April 8, 2022, Hannah Rosse at p. 1382.
[31] *See*, Supplemental VS at p. 26. We show in Table 3 of our Supplemental VS that adjusting freight train schedules increased average speeds from 14.7 mph in the 2019 Passenger Case (Table 1, Line 3, Column (2) to 15.2 mph in the Rescheduling Freight Trains Case (Table 1, Line 7, Column (2)), and reduced Delay per 100 Train Miles from 88.2 minutes (Table 1, Line 3, Column (5)) to 74.3 minutes (Table 1, Line 7, Column (5)).
[32] *See*, for example, STB Hearings Transcript, April 12, 2022, Clayton Johanson at pp. 3915-3917.
[33] *See*, Supplemental VS at p. 26.

Third, Banks/Guthrie only tested their two (2) operational changes on an individual basis and not on a cumulative basis. This is a departure from their modeling of proposed infrastructure changes where they modeled the changes only on a cumulative basis and not on an individual project basis.[34] Only developing individual results or only developing cumulative results is shortsighted as either, on its own, may not provide a complete picture of the impact(s) of the changes.

Our analysis of the individual impact of the Banks/Guthrie proposed infrastructure additions that we modeled in our Supplemental RTC cases showed that no individual infrastructure addition would mitigate all of the impact of the reintroduction of Regional Amtrak service.[35] Yet, when looked at on a cumulative basis, the totality of the infrastructure additions produced better RTC statistics than the base passenger case.[36] Banks/Guthrie's Supplemental RTC report showed that the shortening of trains had a minimal impact on the RTC statistics and adjusting movable bridge operations showed a slight increase in performance.[37] However, the impact of these two (2) operational changes were in-line with the impact of many of their proposed infrastructure changes when they were reviewed on an individual basis.[38]

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[34] *See*, Opening RTC Report at p. 49.

[35] *See*, Supplemental VS at p. 41. Table 6, Lines 4 to 13 include the individual impacts of the Banks/Guthrie proposed infrastructure additions, which show no single change in infrastructure brings the RTC statistics back to the level of the Adjusted 2019 Freight Base Case RTC statistics.

[36] *See*, Supplemental VS at p. 41. Compare Table 6, Line 2, showing the Adjusted 2019 Freight Base Case RTC statistics to Table 6, Line 23, showing the RTC statistics for the cumulative additional infrastructure projects.

[37] *See*, Supplemental RTC Report at pp. 25 and 29.

[38] *See*, Supplemental VS. at p. 41. The majority of the proposed additions show small improvements in RTC statistics, while the Nicholson Siding Extension and the Bayou Cassotte Turnouts shown in Table 6, Line 9 and Line 12, respectively, show a decline in RTC statistics when compared to the 2019 Passenger Base Case shown in Table 6, Line 3.

B. BANKS/GUTHRIE REPORTING OF RTC STATISTICS

We explained in our Reply VS that Banks/Guthrie summarized the results of their different RTC cases in a series of charts, in which they show the percentage change in what they call RTC Performance Metrics.[39] We also explained during the STB Hearings that reporting percentage changes without also reporting the underlying statistics that produced the reported percentage changes can lead to false impressions about the severity of differences between the RTC cases reported because the percentage changes are presented without context.[40] The STB Chairman noted that reporting the percentage change in statistics without also providing the context of the change is not very useful in determining the actual impact on rail customers.[41]

Banks/Guthrie continue to rely upon the same style of charts in their Supplemental RTC Report that they used in their Opening RTC Report. These charts show only the percentage change in RTC Performance Metrics and do not show the underlying statistics that developed the percentage changes.[42]

At the request of Counsel for Amtrak, we restated the Banks/Guthrie tables included by CSXT and NS in their Supplemental Brief in this proceeding and included the restated tables as Exhibit No. 13 to this Supplemental Reply VS.[43] We used the table titles and headings provided by CSXT and NS, in which CSXT and NS characterize all impacts as "impairment." Our

[39] *See*, Reply VS at p. 10.
[40] *See*, STB Hearings Transcript, May 11, 2022, Daniel L. Fapp at p. 3534.
[41] *See*, STB Hearings Transcript, April 14, 2022, Chairman Oberman at pp. 2079-2080.
[42] *See*, Supplemental RTC Report at pp. 11-18, 25-26 and 29-30.
[43] The Railroads' Supplemental Brief did not include all of the tables Banks/Guthrie included in their Supplemental RTC Report, but did include tables from Banks/Guthrie's Opening RTC Report. Specifically, Tables 1 and 3 of the Railroads' Supplemental Brief were taken from Tables 19 and 20, respectively, from the Opening RTC Report. Tables 2, 4, 5, 6, 7 and 8 in the Railroads' Supplemental Brief were taken from Tables 2-2, 2-4, 2-6, 2-8, 2-3 and 2-7, respectively, from the Supplemental RTC Report.

restatement of CSXT and NS table titles and headings does not indicate our agreement with their characterization of impacts as "impairment."

We also noted during the STB Hearings that the RTC Performance Metrics used by Banks/Guthrie can lead to false impressions if not viewed in context.[44] We touched on this briefly in our Reply VS where we discussed that while Banks/Guthrie stated that average Train Speeds between their 2039 RTC Freight Cases and their 2039 Passenger Cases would decline by 4.5 percent, this reflected only a 0.7 mph reduction in average Train Speeds.[45]

It is vitally important to understand the context in which the percentage change in RTC statistics are developed and what the underlying statistics mean. One of the common RTC reporting metrics used by modelers is Delay per 100 Train-Miles. As we explained in our Supplemental VS, this metric shows delay results assuming a constant 100 miles traveled. This metric is useful for comparing total delay time between train movements traveling different distances because it provides a normalized value.[46] The issue with this metric is, however, as we explained during the STB Hearing, normalizing the delay for trains traveling short distances can lead to misleading impressions about the true amount of delay incurred.[47] If, for example, a train that moves five (5) miles incurs a three (3) minute delay, normalizing the delay on a 100 Train-Mile basis would produce a delay of 60 minutes for the same train.[48] The 60 minutes of Delay per 100 Train-Miles can be helpful when comparing the statistic against trains that move much longer distances, it can also lead to misunderstandings when trying to evaluate actual, non-normalized train delays.

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[44] *See*, STB Hearings Transcript, May 11, 2022, Daniel L. Fapp at pp. 3532-3534.
[45] *See*, Reply VS at p. 10.
[46] *See*, Supplemental VS at p. 10.
[47] *See*, STB Hearings Transcript, May 11, 2022, Daniel L. Fapp at p. 3533.
[48] (3 minutes of delay ÷ 5 miles traveled) x 100 mile = 60 minutes of normalized delay.

To illustrate this point, we reviewed the Delay per 100 Train-Miles statistics produced by the Banks/Guthrie 2019 F and 2019 P RTC cases for those trains traveling 25 miles or less on the modeled network.[49] This includes one CSXT Local (CSXT 1),[50] the Port of Mobile's Terminal Railway Alabama State Docks ("TASD") train that operates on the CSXT system, seven (7) NS long-haul trains (NSR A, NSR B, NSR C, NSR D, NSR E, NSR F and NSR G) and one NS Local (NSR H).[51] For these 10 trains, we compared the Delay per 100 Train-Miles calculated by Banks/Guthrie to our calculation of the Average Delay per Train using the Banks/Guthrie RTC data. Unlike the Delay per 100 Train-Miles statistic, the Average Delay per Train provides the actual average delay incurred by the train, and not a normalized value.

The results of our comparison are shown in Table 2 below.

[49] These statistics were reported in Banks/Guthrie's Opening RTC Report at Table 20 and reproduced as Table 3 in the Railroads' Supplemental Brief.

[50] The parenthetical train symbols for CSXT and NS trains reflect the Train Profile names used by Banks/Guthrie in Table 2-4, Table 2-5, Table 2-8, Table 2-9, Table 3-6, Table 3-7, and Table 4-2 of their Supplemental RTC Report. The actual CSXT and NS train symbols aligned with the parenthetical train symbols are shown in Banks/Guthrie's Supplemental e-workpaper "Length Analysis.xlsx," Columns (X) and (AA).

[51] *See,* Supplemental Rely VS e-workpaper "Delay per 100 Train-Miles Analysis.xlsx."

Table 2
Average Train Delay Per 100 Train Miles and Average Delay Per Train
Comparison Between Banks/Guthrie's 2019 F and 2019 P RTC Cases

Train Profile 1/	Average Train Delay Per 100 Train-Miles - (minutes)			Average Delay Per Train (minutes)		
	2019 F	2019 P	Diff. 2/	2019 F	2019 P	Diff. 3/
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. CSXT 1	139.2	127.6	-11.5	14.9	13.7	-1.2
2. TASD	316.0	422.2	106.2	10.7	14.3	3.6
3. NSR A	17.8	13.6	-4.2	2.2	1.7	-0.5
4. NSR B	22.2	26.3	4.1	2.0	2.4	0.4
5. NSR C	10.0	11.9	1.9	1.3	1.5	0.2
6. NSR D	511.7	562.7	51.0	103.8	114.1	10.3
7. NSR E	256.6	323.3	66.7	47.0	59.2	12.2
8. NSR F	234.0	199.9	-34.1	27.1	23.2	-4.0
9. NSR G	169.5	234.1	64.5	40.8	56.3	15.5
10. NSR H	325.7	281.3	-44.4	62.0	53.5	-8.4

Source: Supplemental VS e-workpaper "Delay per 100 Train-Miles Analysis.xlsx."
1/ Reflect Train Profile names used in Banks/Guthrie's Supplemental RTC Report.
2/ Column (3) – Column (2).
3/ Column (6) – Column (5).

As shown in Table 2 above, normalizing train delay times on a Delay per 100 Train-Miles basis can hide the actual delay times incurred by the trains. The best example of this is the TASD trains shown in Table 2, Line 2. Banks/Guthrie indicated in their Opening RTC Report that the percentage change in Delay per 100 Train-Miles for the TASD train was 33.6 percent.[52] The workpapers underlying their calculation showed that the TASD train would see delays increase by 106.2 minutes on a normalized Delay per 100 Train-Miles basis (Table 2, Line 2, Column (4)). Both the percentage change and the Delay per 100 Train-Miles may appear significant on the surface, but when these figures are placed in the context that TASD trains operate on only 3.4 miles of the CSXT system as calculated by Banks/Guthrie, the average TASD train delays would only increase by 3.6 minutes per train (Table 2, Line 2, Column (7)). In other words, while the

[52] *See*, Opening RTC Report at Table 20.

Banks/Guthrie statics would lead one to infer that the TASD trains would see substantial delays after the reintroduction of Regional Amtrak service, Banks/Guthrie's underlying calculations show TASD trains would only see an increase in delays of 3.6 minutes per train.

The average train delay statistics shown in Table 2 show that after the reinstatement of Regional Amtrak service, only one train traveling less than 25 miles would see average delays increase by more than 15 minutes and that most trains would see additional delays of less than 10 minutes or actual reductions in delay time. These facts would not be apparent by simply looking at the tables included in the Banks/Guthrie Opening RTC Report and Supplemental RTC Report or looking at the statistics in their workpapers. Rather, it requires understanding the basis of the RTC Performance Metrics reported, and placing the statistics in the proper context.

V. THE BANKS/GUTHRIE RECREW ANALYSIS DOES NOT ADDRESS THE CHAIRMAN'S CONCERNS

The STB Chairman stated during the STB Hearings that the Railroads did not present any data on the impacts on Railroads' customers from the reinstatement of Regional Amtrak service between New Orleans and Mobile.[53] The Chairman noted that while the Railroads presented information on their calculation of aggregate delays after the reinstatement of passenger service, they did not provide any information on the impact on individual customer freight service.

Banks/Guthrie claim to have addressed this concern with their recrew analysis, but this analysis contains a number of conceptual and implementation issues. The only conclusion that can be drawn from the Banks/Guthrie recrew analysis is that it has no impact on the RTC modeling results because Banks/Guthrie did not present the impact, if any, on their RTC results.

Banks/Guthrie stated that to address the Chairman's concerns about the impact to customers along the primary portion of the Regional Amtrak route, they developed an analysis that they state quantifies the additional delays caused by Regional Amtrak trains between Mobile and New Orleans. They claim that this analysis shows that the reinstatement of Regional Amtrak service will lead to additional train recrews and local trains being unable to serve local customers.[54] Banks/Guthrie's methodology compares the number of real-world historic trains they claim required more than 12 hours to complete their work, and therefore required a "recrew," against the number of simulated RTC trains that would require recrews after the introduction of Regional Amtrak service. According to Banks/Guthrie, this increase in recrew rates from the introduction of Regional Amtrak service will increase the congestion on the Mobile to New Orleans line segment, will result in greater disruption of operations, and will result in an inability to serve all

[53] *See*, STB Hearings Transcript, May 12, 2022, Chairman Oberman at pp. 4050-4052.
[54] *See*, Banks/Guthrie Supplemental VS p. 14.

scheduled customers.[55] Even if we believe Banks/Guthrie's assertion that there is some correlation between recrew rates and customer service, the analysis provided by Banks/Guthrie is meaningless as we explain below.

We discuss the conceptual and implementation issues with Banks/Guthrie's recrew analysis below under the following topical headings:

A. Banks/Guthrie Recrew Analysis Procedures
B. Conceptual Issues with the Banks/Guthrie Recrew Analysis
C. Implementation Issues with the Banks/Guthrie Recrew Analysis

A. BANKS/GUTHRIE RECREW ANALYSIS PROCEDURES

Banks/Guthrie attempted to show the impact on customers along the New Orleans to Mobile section of the network by developing the number of recrews for both merchandise and local trains before and after the reintroduction of Regional Amtrak service.[56] Banks/Guthrie's analysis assumes that if the number of recrews increases after the reintroduction of Regional Amtrak service, then service has declined and local customers along the route have been adversely impacted.

1. Historic Recrew Rates

Banks/Guthrie began their analysis by first developing the alleged recrew rates for historic merchandise trains before the reinstatement of Regional Amtrak service. They attempted to complete this task by using historic CSXT OS[57] and crew data to develop the difference in the time a crew would come on duty and the time the train finished its work at the arrival yard.[58]

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[55] *See*, Supplemental RTC Report at p. 42.
[56] What Banks/Guthrie call "merchandise" trains are actually mixed-manifest trains operating between New Orleans and Mobile. For the sake of convenience, we also use the term "merchandise train" in this Supplemental Reply VS to refer to mixed-manifest trains operating between New Orleans and Mobile.
[57] CSXT OS data consists of train event data for a train's movements along its route including, but not limited to, train event locations and time stamps.
[58] *See*, Supplemental RTC Report at p. 33.

Banks/Guthrie separated each historic merchandise train's total operating time into the following four (4) time periods:

1. On-Duty Time to Train Departure Time, i.e., the time between when a crew comes on duty and the train performs its first event in the yard;

2. Departure Work Time, i.e., the time between when a train performs its first event in the yard and the train exits the yard;

3. Line-of-Road Time, i.e., the time the train exits its origin yard and arrives at its destination yard. In this case, this equals the operating time between New Orleans and Mobile; and

4. Arrival Work Time, i.e., the duration of delays incurred entering the yard and completing work in the yard.

The sum of all four (4) of these time periods equals the Banks/Guthrie crew on-duty duration. Because of federal hours of service regulations, the crew on-duty time must be less than or equal to 12 hours. If the sum of the four (4) time periods exceeded 12 hours, Banks/Guthrie stated that another crew was required to complete the original crew's work and a recrew situation occurred.[59]

Banks/Guthrie developed their recrew rate for historic local trains working along the New Orleans to Mobile line segment using a similar approach. As with merchandise trains, Banks/Guthrie used historic CSXT OS and crew data to develop work times for each local train, but instead of separating the crew time into four (4) time periods, they separated the local train crew times into the following two (2) time periods:

1. On Duty to Departure Time, i.e., the time between when a crew comes on duty and the train performs its first event in the yard; and

2. Work and Travel Time, i.e., the time between the train's first and last events.

[59] *See*, Supplemental RTC Report at p. 32.

Banks/Guthrie state that because local trains have multiple originating locations and differing routes, it was not possible to remove work events from the CSXT OS data to independently evaluate the time local trains work away from their yard along the line of road.[60] Banks/Guthrie concluded that if the difference between a local train's first On Duty to Departure Time and its last Work and Travel Time was greater than 12 hours, then that train required another crew to complete its operations.

2. Recrew Rates After Reintroduction of Regional Amtrak Service

To develop the number of recrews for merchandise trains after the reinstatement of Regional Amtrak Service, Banks/Guthrie used each merchandise train's historic On-Duty to Train Departure Time, Departure Work Time, Line-of-Road Time and Arrival Work Time, and added a 15.5 percent "kicker" to each merchandise train's historic Line-of-Road Time.[61] Banks/Guthrie developed the 15.5 percent kicker for merchandise trains based on the average increase in Line of Road run time minutes between their 2019 Base Freight Case and their 2019 Passenger Case.[62] If, after adding the 15.5 percent kicker to each train's Line of Road run times, the train's aggregate operating time exceeded 12 hours, Banks/Guthrie concluded the train required a recrew.[63]

Banks/Guthrie developed the number of recrews for local trains after reinstatement of Regional Amtrak service using a similar approach as they did for the merchandise trains. Banks/Guthrie began with each local train's historic On-Duty to Train Departure Time, and Work and Travel Time and added a 15.2 percent kicker to the local trains Work and Travel Time.[64] If, the train's aggregate operating time exceeded 12 hours after adding the 15.2 percent kicker to each

[60] *See,* Supplemental RTC Report at p. 38.
[61] *Id.,* at p. 36.
[62] *Id.,* at pp. 36-37.
[63] *Id.,* at p. 37.
[64] *Id.,* at p. 40.

local train's Work and Travel Time, Banks/Guthrie concluded the train required a recrew.[65] Banks/Guthrie developed their 15.2 percent kicker for local trains based on the average increase in Line of Road run time minutes for local trains between their 2019 Base Freight Case and their 2019 Passenger Case.[66]

The impact of these recrews was not included in the Banks/Guthrie RTC modeling that was presented in their evidence.

B. CONCEPTUAL ISSUES WITH THE BANKS/GUTHRIE RECREW ANALYSIS

Banks/Guthrie state that they developed their recrew analysis to demonstrate the alleged decline in service between New Orleans and Mobile after the reintroduction of Regional Amtrak service. They concluded that the reinstatement of Regional Amtrak trains will reduce the average operating speeds for both merchandise and local trains operating between New Orleans and Mobile. These declines in run times will lead to increases in the number of trains that require recrews and, in the case of local trains, will lead to customers not receiving their scheduled service.[67]

There are at least three (3) conceptual issues with the Banks/Guthrie recrew analysis including that: (1) they did not provide any testable support for their claims; (2) they did not perform any analyses of the impact on specific customers; and (3) they mixed and matched historical data and data derived from RTC model runs.

[65] *See,* Supplemental RTC Report at p. 40.
[66] *Id.*
[67] *Id.,* at p. 42

1. No Testable Support

Banks/Guthrie did not provide any analytic or testable support for their claim that an increase in the number of recrews will lead to a decline in service. Instead, they infer that a general increase in the number of recrews and the hypothetical impact on Train Speeds that customers would be impacted. Banks/Guthrie provided no proof or support that an increase in recrews will lead to a decline in rail service to individual customers.

As the STB Chairman stated during the STB Hearings, each customer is unique. A customer that only receives service a few times per week and does not require service more often may not be impacted by the alleged slower Train Speeds.[68] The Banks/Guthrie analysis does not provide any proof or support that any changes from the reinstatement of Regional Amtrak service will impact, let alone unreasonably impact, individual CSXT freight customers along the New Orleans/Mobile line segment.

2. No Analysis of the Impact on any Specific Customer

The Banks/Guthrie analysis does not test the impact on the individual customers along the New Orleans/Mobile line segment. The proper way to test the impact on individual customers is to compare the historic service provided to individual customers along the route and then compare the service after the reintroduction of Regional Amtrak service developed by the RTC model. This is the approach the STB takes in its maximum reasonable rate cases based on stand-alone costs to determine if the proposed hypothetical railroad will provide the same level of service as the incumbent railroad.[69]

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[68] *See*, STB Hearings Transcript, May 12, 2022, Chairman Oberman at p. 4051.

[69] *See*, for example, STB Docket No. 42057, *Public Service Company of Colorado d/b/a Xcel Energy v. The Burlington Northern and Santa Fe Railway Company*, served June 8, 2004 at pp. 20-21, and STB Docket No. NOR 42142, *Consumers Energy Company v. CSX Transportation, Inc*., served January 11, 2018 at pp. 35-36.

Instead of developing their RTC cases in a manner consistent with prior RTC submittals to the STB, in which trains to specific customers along a route are included in the RTC model, Banks/Guthrie developed their RTC cases in a way that the individual impact for the vast majority of the customers along the route cannot be determined. In other words, Banks/Guthrie did not model trains moving to specific customers along the New Orleans to Mobile route.

Based on information presented in prior STB cases, the Railroads possess the data to identify the specific trains and railcars moving to their customers along the New Orleans to Mobile network. This data includes, but is not limited to, train movement data, railcar movement data and waybill data.[70] Banks/Guthrie could have used this data to determine the specific trains included in their RTC cases that delivered specific railcars to CSXT customers between New Orleans and Mobile but Banks/Guthrie did not model actual train operations, rather, they relied on randomized train times applied to a representative sample of trains to include in their RTC model.

3. <u>Mixed and Matched Data</u>

Third, Banks/Guthrie mixed and matched historic real-world operating data with RTC data developed in this proceeding for their calculations. This mixing and matching creates an unreliable apples and oranges situation.

By comparing their freight-with-passenger RTC case to their real-world data they are forced to develop statistics from real-world data using a completely different methodology. They then compared those statistics to an RTC simulation that suffers from the numerous inefficiencies we previously outlined including, oversized yard trains blocking access to the yards these local and merchandise trains need to access. The RTC trains also have different operating rules than real world trains. For example, the trains in the Banks/Guthrie RTC cases are limited from sitting

[70] *See*, STB Docket No. NOR 42142, *Consumers Energy Company v. CSX Transportation, Inc*., Opening Evidence of Complainant (Public Version), filed November 2, 2015, at pp. III-C-39 to III-C-42.

at at-grade railroad crossings for more than 20 minutes, which is not a constraint faced by real world trains. Also, the RTC trains face randomized route maintenance events that would not occur in the real world where routine maintenance events are planned to work around peak times in rail operations. In simple terms, the Banks/Guthrie RTC trains operate in a different environment than real-world trains, and simply adding time generated under one-set of operating rules to times generated from a different set of operating rules will lead to faulty conclusions.

C. IMPLEMENTATION ISSUES WITH THE BANKS/GUTHRIE RECREW ANALYSIS

In addition to the conceptual issues with the Banks/Guthrie recrew analysis, there are several implementation issues associated with their analysis.

First, Banks/Guthrie state that because southbound trains operating from Mobile to New Orleans do not report at South Gentilly Yard, they could not determine when trains have completed their yard work after arriving at Gentilly Yard. Banks/Guthrie state that due to this lack of data, they added 60 minutes to the southbound trains' Arrival Work times to account for the duration of the southbound trains' work events.[71] The problem with this Banks/Guthrie approach is that no tangible or testable support for these 60 minutes of additional time was provided. Their only support is that the 60 minutes additional time is "roughly equivalent to the 54 minutes to prepare a northbound the (*sic*.) train for departure."[72]

Class I railroads, like CSXT and NS, have long maintained detailed crew time and management records.[73] Additionally, as we noted during the STB Hearings, the Class I railroads

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[71] *See,* Supplemental RTC Report at pp. 33-34.
[72] *Id.*
[73] *See,* for example, the Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company's May 27, 2003 reply in STB Docket No. 42058, *Arizona Electric Power Cooperative, Inc. v.*

have a system of safety and accountability in their organizations that requires railroad employees and management to detail daily transactions to help ensure a safe work environment for all railroad workers.[74] Clearly, CSXT maintains records that show when a train crew finishes its work yarding a train in Gentilly Yard and either moves on to other tasks, or completes its work for the day. Instead of relying upon this type of information to determine the time between when a train enters the Gentilly Yard and when the train completes its work, Banks/Guthrie rely upon an unsupported assumption.

Second, the number of recrews Banks/Guthrie identified using their untested and undocumented approach does not match the train recrews reported in CSXT crew start data. In discovery in this proceeding, CSXT provided crew data for trains operating on the CSXT M&M and NO&M subdivisions.[75] This information included, but is not limited to, train identification number, train origin station and milepost and train origin date. The CSXT-provided data also included the "called" and "on-duty" times for crews that worked on each train in the list, the number of crews that worked on the train and the number of employees in each crew. Using the train identification number, the train origin date and the train origin milepost, we created a unique identification for each train and matched it to the trains included in the Banks/Guthrie recrew analysis.

Burlington Northern and Santa Fe Railway Company and Union Pacific Railroad Company (Public Version) at pp. II-49 to II-54, and Burlington Northern and Santa Fe Railway Company's October 8, 2003 Reply in STB Docket No. 42071, *Otter Tail Power Company v. Burlington Northern and Santa Fe Railway Company* (Public Version) at pp. II-44 to II-51. These filings explain the movement specific adjustments parties made to their Uniform Railroad Costing System ("URCS") variable cost calculations as part of the market dominance determinations in STB maximum reasonable rate proceedings using detailed crew time and pay records provided by the railroads. Parties to STB maximum reasonable rate proceedings no longer develop movement specific adjustments to their URCS variable cost calculations pursuant to the STB's decision in Ex Parte No. 657 (Sub-No.1), *Major Issues In Rail Rate Cases*, served October 30, 2006, but this does not mean that the Class I railroads no longer develop and maintain detailed crew time and pay information.

[74] *See*, STB Hearings Transcript at p. 3585.

[75] *See*, "CSX_AmtrakGC_0036376.xlsx." The M&M Subdivision covers from Montgomery to Mobile, AL. The NO&M Subdivision covers from Mobile, AL to New Orleans, LA.

As we stated above, Banks/Guthrie indicated an historic train incurred a recrew if the sum of all estimated work time for road and local trains exceeded 12 hours, or 720 minutes.[76] The Banks/Guthrie workpapers show that they estimated 1,090 merchandise and 261 local trains had estimated total crew times in excess of 12 hours.[77]

As shown in Table 3 below, CSXT crew start data produced in discovery shows that CSXT incurred a far smaller number of crew starts than those estimated by Banks/Guthrie.

Table 3
Banks/Guthrie Estimated
Recrews Compared to CSXT Actual Recrews

Train Type	Banks/ Guthrie	CSXT Crew Data	Difference 1/
(1)	(2)	(3)	(4)
1. Merchandise	1,090	286	804
2. Local	261	4	257
3. Total	1,351	290	1,061

Source: Supplemental e-workpapers "Merchandise Analysis (LEPA).xlsx" and "Local Analysis (LEPA).xlsx."
1/ Column (2) minus Colum (3).

As shown in Table 3 above, the number of recrews included in CSXT's crew start data is significantly lower than the recrews estimated by Banks/Guthrie.

Banks/Guthrie provided no testable or examinable evidence that recrews that are not recorded in the crew start data take place, only a statement that switching of crews between trains occurs as a recrew. STB precedent calls for more information than unsupported statements.

[76] *See,* Banks/Guthrie Supplemental VS e-workpapers "Merchandise Analysis.xls," tab "Actual Analysis," cells K2 to K6 and e-workpaper "Local Analysis.xlsx," tab "Actual Analysis," cells H2 to H5.

[77] *See,* Supplemental Reply e-workpapers "Merchandise Analysis (LEPA).xlsx," tab "Actual Data (Adjusted)," cell Y7209 and "Local Analysis (LEPA).xlsx," tab "Actual Data (Adjusted), cell U4821.

VI. ROSSE/SINKKANEN TRAIN COUNT ANALYSIS

In our Reply VS, we explained that we were unable to reconcile the number of trains Banks/Guthrie included in their Opening RTC cases with the number of trains included in the only Banks/Guthrie workpapers used to develop their RTC inputs.[78] We also explained in great detail in our Opening VS that Banks/Guthrie and Rosse/Sinkkanen did not provide any direct connection between the real-world train event data and the trains in the RTC model that could be tested and verified.[79] We explained that STB precedent requires witnesses in proceedings before the Board to provide clear, concise, supporting workpapers and to note the sources of information relied upon as well as methods of calculations. We further explained that parties that do not provide detailed support for their testimony risk having the STB reject their evidence for lack of support.[80]

In their Rebuttal VS, Rosse/Sinkkanen stated that we overstated the number of unsupported trains included in the Banks/Guthrie RTC model because we did not take into consideration CSXT and NS train event data that the Railroads provided either in discovery or in the Railroads' Opening workpapers.[81] They also claimed that we did not understand how a .TRAIN file is created for RTC models, including not knowing how to use information provided by field personnel and not knowing how to use NS data developed by a proprietary NS system that was not provided in the Railroads' evidence.[82]

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[78] *See*, Opening VS at p. 13. In this instance, the term "trains" reflects inputs into the RTC model made in the .TRAIN file that occupy network capacity, including light engine movements, blocks of railcars dropped by trains on the main line and hi-rail movements.
[79] *See*, Opening VS at pp. 33-34.
[80] *Id.* at p. 27.
[81] *See*, Rosse/Sinkkanen Rebuttal VS at p. 6.
[82] *Id.*

At the conclusion of the STB Hearings, STB Chairman Oberman stated that "I am going to make some observations and some requests on where we are in this case."[83] Specifically, he stated:

> There's one other aspect of the RTC study … which I find troubling … the experts on behalf of the railroads … Rosse and Sinkkanen … they did not keep any documentation of the data for 1,265 trains, which has led to a huge amount of litigation in this case.[84]
>
> ***
>
> [T]he one piece of data that was not produced in any way that anybody could examine it were these field interviews. And the fact that they weren't instructed to maintain them -- I don't fault them -- is troublesome. It undermines our ability to rely on it.[85]

In their Supplemental VS Rosse/Sinkkanen now attempt to support the number of trains Banks/Guthrie included in their Opening RTC models by including an after-the-fact analysis that attempts to "back into" the train counts in the RTC data using a variety of different datasets and assumptions. As we explain below, the Banks/Guthrie RTC cases show 500 trains operating over the NS portion of the Gulf Coast Corridor, but even after searching through all of its various datasets, NS can only account for half (250) of these trains in verifiable data provided in this proceeding. Similarly, of the 1,258 CSXT trains Banks/Guthrie included in their RTC cases, Rosse/Sinkkanen could only identify less than half (556) trains from multiple sources of verifiable data.[86]

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[83] *See,* STB Hearings Transcript, May 12, 2022, Chairman Oberman at p. 4040.

[84] *See,* STB Hearings Transcript, May 12, 2022, Chairman Oberman pp. 4047-4048.

[85] *See,* STB Hearings Transcript, May 12, 2022, Chairman Oberman p. 4048.

[86] Rosse/Sinkkanen state in their Supplemental VS that 590 of the CSXT Trains included in the RTC model are directly supported by CSXT dispatch data. *See,* Rosse/Sinkkanen Supplemental VS at p. 12. This statement is incorrect. To develop their 590 train count, Rosse/Sinkkanen developed the average number of times a specific train appeared in the CSXT dispatch data over a 14 day period. For example, Rosse/Sinkkanen calculated that an average of 14 work trains appear in the CSXT dispatch data for a 14 day period. *See,* Rosse/Sinkkanen e-workpaper "Train Analysis Count.xlsx," tab "Summary," cell I5. However, the Banks/Guthrie RTC model only included seven (7) work trains for the 14 day model period. *See,* Rosse/Sinkkanen e-workpaper "Train Analysis

Table 4 below shows the number of trains Rosse/Sinkkanen can actually support from verifiable data. It is important to note that none of the new Rosse/Sinkkanen evidence was included in the Banks/Guthrie RTC models to demonstrate the impact of this new information.

Table 4
Support for Banks/Guthrie RTC Train Files

Data Source	CSXT	NS	Total 1/
(1)	(2)	(3)	(4)
A. Supported by Electronic Data			
1. Banks/Guthrie Opening Workpapers	539	211	750
2. Discovery Data	0	39	39
3. Publicly Available Information	17	0	17
4. Subtotal 2/	556	250	806
B. Unsupported by Electronic Data			
5. Conversations with Field Staff and Watching Dispatch Replays	309	250	559
6. Developed from analysis of dispatch data	393	0	393
7. Subtotal 3/	702	250	952
C. Total 4/	1,258	500	1,758

Sources: Rosse/Sinkkanen Supplemental e-workpapers "Train Count Analysis.xlsx," and "NS Train Counts – Cross Reference.xlsx."
1/ Column (2) + Column (3).
2/ Line A.1 + Line A.2 + Line A.3.
3/ Line B.5 + Line B.6.
4/ Line A.4 + Line B.7.

As shown in Table 4 above, 952 (Table 4, Line B.7, Column 4) of the train movements included in the Banks/Guthrie RTC cases, or 54.1 percent,[87] are unsupported by any documentation that can be viewed and tested.

Count.xlsx," tab "Summary," cell L5. Rosse/Sinkkanen found support for seven (7) work trains in the RTC model, but not 14 because there were not 14 CSXT work trains in the RTC model. When this overstatement is corrected, the 590 trains cited by Rosse/Sinkkanen is actually 539 trains. They also include publicly available data that supports 17 trains for a total of 556 trains.

87 (952 ÷ 1,758) x 100 = 54.1 percent.

While the Rosse/Sinkkanen analysis sheds more light on the trains included in the Banks/Guthrie .TRAIN files, it also confirms that there is simply no tangible, verifiable and testable data for over 54 percent of their train data.

In addition, the data that Rosse/Sinkkanen use shows inconsistencies that cast further doubt on the trains included in the Banks/Guthrie RTC models. These problems with the new Rosse/Sinkkanen analysis are discussed below under the following topical headings:

A. Proper Role of Rebuttal Evidence in STB Proceedings
B. Rosse/Sinkkanen Train Count Analysis Does Not Support the Number of Trains in the RTC Model

A. PROPER ROLE OF REBUTTAL EVIDENCE IN STB PROCEEDINGS

We explained in our Opening VS that Banks/Guthrie did not provide any evidence to show how they developed the trains that they input into their RTC model. Rather, the Banks/Guthrie trains were provided by the Railroads and the Railroads used triangular distribution methods to develop many of the variables included in their train lists.[88] This fact is confirmed in a letter from the Railroads' outside Counsel that states that they have no formulas, documents or workpapers supporting how they developed the train inputs to the RTC model.[89]

We also explained that witnesses in STB proceedings are required to provide support for any evidence they rely upon in providing their opinions. The STB stated in recent proceedings that supporting workpapers should be clear, concise and note the sources of information relied upon and methods of calculations.[90]

Even after outside Counsel for the Railroads acknowledged that Banks/Guthrie had no workpapers supporting the development of the RTC .TRAIN files, Rosse/Sinkkanen stated in their

[88] *See*, Opening VS at p. 12.
[89] *Id.* at p. 13.
[90] *Id.* at p. 27.

Rebuttal VS and in their Supplemental VS that we should have been able to confirm the number and types of trains included in the Banks/Guthrie RTC cases based upon the disparate and unlinked discovery files and evidentiary workpapers.[91] To support this claim, Rosse/Sinkkanen undertook analyses presented in their Supplemental VS that attempt to show that the Banks/Guthrie RTC trains are supported by NS and CSXT train movement data. Even if their Supplemental analyses showed a direct link between all of the Banks/Guthrie RTC trains and NS and CSXT data (which it does not as described in more detail blow), the analysis is one that should have been placed in their Opening VS and not after two (2) additional rounds of evidence in this proceeding.

B. ROSSE/SINKKANEN TRAIN COUNT ANALYSIS DOES NOT SUPPORT THE NUMBER OF TRAINS IN THE RTC MODEL

Rosse/Sinkkanen developed a series of analyses in which they attempt to rehabilitate the development of the Banks/Guthrie RTC train list by attempting to show that there is support for the RTC trains in the CSXT and NS data. What they demonstrate is that there is no support for the majority of the trains included in the Banks/Guthrie RTC train list beyond unsupported conversations that they had with CSXT and NS field personnel. In addition, the trains that are in the RTC train lists and that are supported by some sort of normal course of business CSXT and NS records show that, in many cases, the number of trains that were modeled by Banks/Guthrie are different than indicated by the CSXT and NS data.

1. CSXT Train Count

Rosse/Sinkkanen claim that of the 1,258 CSXT trains included in the RTC model, 590 trains are directly supported by CSXT dispatch data.[92] They also claim that there were 12 blocks

[91] *See*, Rosse/Sinkkanen Rebuttal VS at pp. 6-8, and Rosse/Sinkkanen Supplemental VS at p. 2.

[92] *See*, Rosse/Sinkkanen Supplemental VS at p. 11. As described in Table 3 above, the actual number is 539 trains. The numbers cited by Rosse/Sinkkanen do not reconcile with the figures included in Table 3 above.

of railcars and 42 light engine movements that they state are directly correlated to merchandise and local trains included in the dispatch data and should be deemed to be part of the dispatch data. They also state that there are 126 hi-rail movements transferring bridge tenders that are supported by conversations with CSXT staff and 17 foreign trains operating over a diamond in Mobile.[93] They then claim that a subtotal of 471 trains remain after accounting for the trains included in the CSXT dispatch data, blocks of railcars, light engine movements, hi-rail movements and foreign train movements.[94] They assert that the remaining 471 trains are predominately yard and foreign trains that are referenced, but not explicitly shown, in the CSXT dispatch data.

There are numerous issues and inconsistencies with the Rosse/Sinkkanen CSXT train analysis as we explain below.

a. <u>Unsupported CSXT Trains</u>

Though Rosse/Sinkkanen claim that "nearly all of the 1,258 trains operating on CSXT's portion of the corridor appear in the electronically collected data sources,"[95] they admit that

> [T]here were still several Train Profiles that appear in the 2021 Gulf Coast RTC Model but were <u>not</u> observable in [any of] the electronically collected data sources. Those trains fell into five Train Types: Foreign, Blocks of Cars, Light Engine, Bridge Tender, and Yard.[96]

In fact, as shown in Table 5 below, of the 1,258 CSXT trains included in the RTC model, Rosse/Sinkkanen demonstrate that there are 309, or 24.5 percent, trains for which there is simply no support. These 309 unaccounted for CSXT trains are summarized in Table 5 below.

[93] *See*, Rosse/Sinkkanen Supplemental VS at p. 12. (590 + 42+ 126+17 = 787 trains; 1,258 minus 787 = 471 trains).
[94] *Id.* at p. 12.
[95] *Id.* at p. 2.
[96] *Id.* at p. 9.

Table 5
CSX Train Profiles with No Support

	Train Profile 1/	RTC Trains
	(1)	(2)
1.	Foreign Train 1	17
2.	CSXT Alpha_CARS	12
3.	Foreign Train A	14
4.	Foreign Train B	14
5.	Foreign Train C	14
6.	Foreign Train D	14
7.	Foreign Train E	14
8.	Foreign Train F	14
9.	Foreign Train G	14
10.	Foreign Train H	14
11.	CSXT Beta_Light Engine	14
12.	CSXT Gamma_Light Engine	14
13.	CSXT Delta_Light Engine	14
14.	Bridge Tender A Morning Shift	14
15.	Bridge Tender B Afternoon Shift	14
16.	Bridge Tender C Evening Shift	14
17.	Bridge Tender D Morning Shift	14
18.	Bridge Tender E Afternoon Shift	14
19.	Bridge Tender F Evening Shift	14
20.	Bridge Tender G Morning Shift	14
21.	Bridge Tender H Afternoon Shift	14
22.	Bridge Tender I Evening Shift	14
23.	Total	309

Source: Rosse/Sinkkanen Supplemental VS, Appendix A.
1/ Because the Railroads designated their train profile names "Highly Confidential," the train profile names shown above are anonymized. A cross-walk between the anonymized train files shown in Column (2) and the actual train profile names used by Rosse/Sinkkanen is included in our Supplemental Reply e-workpapers at "Train Profile Cross-Walk.xlsx," tab "Table 5 Cross-Walk."

For all of the train symbols except the foreign train (Foreign Train 1) in Table 5 above, the only support offered is an undocumented conversation with CSXT personnel shown in the Rosse/ Sinkkanen Supplemental VS, Appendix A.

b. Blocks of Trains and Light Engine Movements are Not in the Dispatch Data

Rosse/Sinkkanen indicate that there 12 blocks of railcars and 42 light-engine movements included in the RTC train list that directly correlate with trains included in the CSXT dispatch data. They also claim that their Supplemental workpaper indicates these movements are connected to real world trains.[97] However, Rosse/Sinkkanen are inconsistent in their testimony because they clearly state in their Supplemental VS that the only support they have for these movements is from conversations with CSXT field personnel.[98]

As we indicated during the STB Hearings, it is highly improbable that a Class I railroad, such as CSXT, would allow railcars to sit on its main line track, or allow light engines to operate over a main line track, without some type of documentation about these activities.[99] As stated previously, Railroads instituted a culture of safety and accountability that dictates that they know to the best of their collective knowledge what is happening on their rail lines at all times. While the blocks of railcars and light engine movements may be correlated with the CSXT dispatch data, and Rosse/Sinkkanen indicate that these rail movements are, in fact, in the dispatch data, there must be some information in CSXT's control that would clearly show these activities. None was provided.

c. Publicly Available Data is Not in the Dispatch Data

Rosse/Sinkkanen state that there are two (2) groups of foreign trains that do not appear in the CSXT dispatch data: (1) Canadian National Railway ("CN") trains crossing a diamond in

[97] *See*, Rosse/Sinkkanen Supplemental VS at p. 12 and Rosse/Sinkkanen Supplemental e-workpaper "Train Count Analysis.xlsx," tab "Summary" Column (J).
[98] *See*, Rosse/Sinkkanen Supplemental VS at p. 10.
[99] *See*, STB Hearings Transcript, April 11, 2022, Thomas D. Crowley at pp. 2923-2924 and May 11, 2022, Daniel L. Fapp at p. 3585.

Mobile; and (2) New Orleans Public Belt Railroad ("NOPB") trains operating at the south end of the Gentilly Yard. They also state that we could have accounted for the CN trains moving over the diamond in Mobile, because there is publicly available information disclosing these trains.[100]

Rosse/Sinkkanen never stated in their Opening VS that they provided Banks/Guthrie with publicly available data to use in developing their RTC train lists, and Banks/Guthrie never indicated that they received or utilized publicly available information in developing their RTC train inputs. They instead state that we should not have relied upon the data they included in their opening workpapers but instead should have inferred that this information came from a publicly available source, and then scoured publicly available data in order to support their Opening RTC model.

Even if we had scoured publicly available sources for the number of trains operating over the CN diamond at Mobile, the data would have been inconclusive at best, and completely contradictory at worst. Rosse/Sinkkanen imply that we could have used publicly available FRA crossing inventory data to confirm the number of trains operating over the Mobile diamond. They note that the FRA crossing inventory reports for crossings 304181Y and 304182F indicate two (2) trains per day operating over these crossings, and therefore substantiate, if not understate, the number of trains operating over the diamond.[101]

Both of these crossings identified by Rosse/Sinkkanen are on the same (west) side of CSXT's network. The FRA data for the two (2) crossings immediately to the east of the Mobile diamond, 874382L and 937472M, show an average of 0.1 trains and 0.6 trains per day,

[100] *See*, Rosse/Sinkkanen Supplemental VS at pp. 9-10.
[101] Banks/Guthrie included 17 total trains, or approximately 1.2 trains per day moving over the diamond.

respectively, operating over the crossings.[102] So, while the publicly available information may indicate two (2) trains operate just to the west of the diamond, the same source of information indicates that, on most days, these trains are not crossing over the CSXT line.

Even if we had been notified in the Railroads' Opening evidence that they were relying upon publicly available FRA data to support their position on the number of CN trains crossing the CSXT line, the publicly available information does not support the Railroads' position that CN operates two (2) trains per day cross this rail line.

d. Yard Train Profiles are Not Yard Train Counts

Rosse/Sinkkanen state that the 471 trains that are not directly and clearly accounted for in dispatch data are based on undocumented conversations with CSXT field personnel or in publicly available data consisting primarily of yard and foreign trains that are represented by examples in the dispatch data.[103] In other words, while not all of these trains are shown in the dispatch data or other sources, there are examples of some of the trains in the dispatch data. Therefore, rather than question why some of these trains appear in the data and others do not, we should assume all of the 471 trains are accounted for in the information provided. Rosse/Sinkkanen also claim that they compared the profiles for each of the 471 trains included in the RTC train list to train profiles included in the CSXT dispatch data and were able to find matches for virtually all of the 471 trains.[104] This is simply not true.

First, finding an example of the same train profile in the dispatch data is not proof of the number of trains included in the RTC train list. Our Reply train count analysis, which was based

[102] The US DOT Crossing Inventory Form indicates that if the number of trains operating over a section of track is less than one per day, the railroad filing the form should indicate the number of trains per week. The Crossing Inventory Form for crossing 874382L shows one train per week operating on the line and the Crossing Inventory Form for crossing 937472M shows four (4) trains per week.

[103] *See*, Rosse/Sinkkanen Supplemental VS at p. 12.

[104] *Id.*

on the only CSXT train data clearly used by Banks/Guthrie to develop their RTC train lists, attempted to count the number of trains, not profiles. Finding the same train profile in the dispatch data as in the RTC train data does not provide any support for the count of trains included in the RTC model.

Second, Rosse/Sinkkanen's train count analysis shows a significantly lower number of yard and foreign trains in the dispatch data than are included in the RTC model. When the number of yard and foreign trains actually included in the dispatch data is evaluated, Rosse/Sinkkanen's analysis of CSXT dispatch data shows a total of 41 foreign trains and 72 yard trains over an average 14 day period.[105] In contrast, their Supplemental VS workpaper shows 199 foreign trains and 444 yard trains included in the Banks/Guthrie RTC model.[106] Stated differently, Rosse/Sinkkanen's analysis shows there are five (5) to six (6) times as many foreign and yard trains in the Banks/Guthrie RTC model as the dispatch data shows.

Third, Rosse/Sinkkanen state that while they found "examples" of all CSXT yard train profiles in the CSXT dispatch data included in their train count analysis, they also stated that they did not explicitly use this data in developing their train list but instead relied upon undisclosed input from field personnel to verify or fully understand each yard train's movement.[107] In other words, they claim that while we should have used the dispatch data to confirm the number of yard

[105] *See*, Rosse/Sinkkanen e-workpaper "Train Count Analysis.xlsx," tab "Summary," cells I8 and I72.

[106] *See*, Rosse/Sinkkanen e-workpaper "Train Count Analysis.xlsx," tab "Summary," cells L8 and L72. The reason for part of the discrepancy is how Banks/Guthrie modeled yard trains in their RTC analyses. As we explained in our Opening VS, it appears that Banks/Guthrie split real world yard train movements into multiple parts and modeled each part as an individual train. *See*, Opening VS at p. 21. Therefore, while a yard train may appear in the dispatch data one time, Banks/Guthrie included that train in the RTC model multiple times. Even taking this into consideration, the number of yard trains included in the RTC model is greater than the yard trains included in the dispatch data. Rosse/Sinkkanen included in their train count analysis a breakdown of the 444 CSXT yard trains in the RTC model showing how many times each yard train occupies the main line. *See*, Rosse/Sinkkanen e-workpaper "Train Count Analysis.xlsx," tab "Summary," cells J23 to J30. This data shows 108 yard trains operating over the 14 day period in contrast to the 72 yard trains Rosse/Sinkkanen found in the dispatch data.

[107] *See*, Rosse/Sinkkanen Supplemental VS at pp. 12-13.

trains in the RTC model, they themselves relied upon unsupported conversations with field personnel to develop their RTC inputs.

2. NS Train Count

Rosse/Sinkkanen claim that of the 500 NS train movements Banks/Guthrie included in their RTC cases, we could have traced 332 trains to "real world trains."[108] The remaining 168 NS trains could only be confirmed by undocumented conversations with NS field personnel. Stated differently, at the very start of their analysis, Rosse/Sinkkanen state that they cannot provide support for 34 percent of the NS train movements, which are based on undocumented conversations.[109]

Notwithstanding Rosse/Sinkkanen's admission that there is no clear and useful support for many of the NS trains included in the Banks/Guthrie RTC models, there are several other issues with Rosse/Sinkkanen's NS train analysis as we explain below.

a. NS "Pseudo Symbols"

Rosse/Sinkkanen explain that the NS train movement data provided in discovery contain over 1,300 "pseudo symbols" in the study period of September 2019 to November 2019, and that it is often difficult to connect a movement notated with a "pseudo symbol" to a movement with an authentic Train ID.[110] Rosse/Sinkkanen glossed over the problem of these over 1,300 "pseudo symbols" in the NS data by explaining that the "pseudo symbols" can automatically populate for a variety of terminal movements including blocks of cars, light engines, interchange (foreign), and yard movements. They also state that because it is often difficult to accurately connect a movement

[108] *See,* Rosse/Sinkkanen Supplemental VS at pp. 20-21 and Rosse/Sinkkanen e-workpaper "NS Train Counts – Cross Reference.xlsx," tab "Summary," cells I20. The 332 trains consist of 211 trains that appear in NS Original Movement Data, 39 trains that appear in NS Supplemental Movement Data, and 82 train movements that are "connected" or "correlate" with train symbols that appear in NS electronic data.

[109] (168 ÷ 500) x 100 = 33.6 percent.

[110] *See,* Rosse/Sinkkanen Supplemental VS at p. 16.

notated by a "pseudo symbol" with a movement associated with a Train ID, NS generally doesn't use the data and relies on field information instead.

The "pseudo symbols" present problems for anyone trying to use the data to confirm train counts. Clearly, a person external to NS that does not have access to the field personnel to provide accurate information can be misled by the inaccurate data. Also, the "pseudo symbols" are really just bad data that can directly impact calculations and absorb time for analyses that ultimately are not useful. Even if we had used the data, the presence of the "pseudo symbols" would have led to improper conclusions and wasted time.

b. <u>Issues with NS Auto Trains</u>

Rosse/Sinkkanen state that the data contained in their Opening workpaper "Gulf Cost Simulation NS Train Data.xlsx" underrepresented the number of auto trains operating on the NS line.[111] However, they also state that a review of train event information provided in discovery, but not used by Banks/Guthrie in developing their RTC model, would have revealed that several auto trains operated on the NS line under different train symbols.[112] Because there was some level of auto train information provided in discovery, Rosse/Sinkkanen determine that we should have been able to reconcile the RTC auto train counts.

Rosse/Sinkkanen's allegation that we could have used the NS train event data provided in in discovery to reconcile RTC train counts with real world information is grossly misleading. Unlike the CSXT train movement data that clearly indicates the type of train included in the data, the NS train movement data (or what NS calls UTCS Data)[113] provides no indication of the train type recorded in the movements. Without a decoder, that NS did not provide, it is not possible to

[111] *See*, Rosse/Sinkkanen Supplemental VS at p. 15.
[112] *Id.*
[113] "UTCS" is an acronym for NS' Unified Train Control System. *See*, http://www.nscorp.com/content/nscorp/en/bizns/whistle-post/entering-the-nextgeneration.html.

determine simply from the NS train movement data that train symbols NS X1, NS X2 and NS X3 are auto trains.[114]

Banks/Guthrie used the train symbol NS X4 to reflect NS auto trains included in their RTC cases.[115] Neither Banks/Guthrie nor Rosse/Sinkkanen provided any link or cross reference in their Opening VS or workpapers that Auto trains with symbols NS X1, NS X2 and NS X3 should be combined with RTC trains with symbols NS X4 to reflect the universe of Auto trains.

c. <u>Reliance on Field Personnel</u>

Rosse/Sinkkanen state that it is not possible to tie "pseudo symbols" with any confidence to specific train symbols included in the Banks/Guthrie RTC models, so they relied upon field personnel to substantiate the train information for four (4) train types including: (1) foreign trains; (2) light engine movements and blocks of cars; (3) working the yard and blocks of cars; and (4) yard trains.[116] While Rosse/Sinkkanen belatedly identify, by name and position, the field personnel whom they relied upon for their data, there are still several issues with their analyses.

Rosse/Sinkkanen state that for the four (4) train groups for which they have no actual support, they reviewed train movements in dispatch playback.[117] Rosse/Sinkkanen provided no information on the dispatch playbacks they reviewed and did not include the dispatch playbacks in their workpapers. Moreover, the presence of dispatch playbacks would infer the presence of

[114] Because the Railroads designated their train profile names "Highly Confidential," the train profile names shown above are anonymized. A cross-walk between the anonymized NS auto trains discussed in this section and the actual train profile names used by Rosse/Sinkkanen is included in our Supplemental Reply e-workpapers at "Train Profile Cross-Walk.xlsx," tab "NS Auto Train Cross-Walk."

[115] *See,* Rosse/Sinkkanen Supplemental VS at p. 15 and Rosse/Sinkkanen e-workpaper "NS Train Counts – Cross Reference.xlsx," tab "Unique Trains P," cells C297 and C298.

[116] *See,* Rosse/Sinkkanen Supplemental VS at pp. 16-17. While Ms. Sinkkanen states that she modeled five (5) train types, the list following that statement only adds to four (4) train types. We presume that "light engine movements and blocks of cars" refers to an NS road train dropping railcars and engines somewhere along the route and that "working the yard and blocks of cars" refers to NS yard trains working in and around the NS yards and dropping blocks of railcars.

[117] *See,* Rosse/Sinkkanen Supplemental VS at pp. 17-19.

some sort of electronic data that could be reviewed and analyzed, yet no such information was provided in this proceeding.

Rosse/Sinkkanen also state that 28 foreign trains not included in their opening workpapers are grain trains that operate during the peak season, and that they substantiated these 28 foreign grain trains through communications with the CSXT Superintendent of the Southwest Region and using the CSXT .TRAIN file.[118]

Beyond the unrecorded conversation with CSXT's Superintendent, there are several other inconsistencies with Rosse/Sinkkanen's explanation. A review of the grain trains included in the CSXT .TRAIN file show that no grain trains move in New Orleans but instead work on the CSXT line between Mobile and Montgomery. Similarly, all of the foreign trains operating on the CSXT portion of the RTC system also work in and around Mobile.[119] Since CSXT only has one interchange location in New Orleans with NS, i.e., Gentilly Yard, any foreign trains or grain trains moving over the NS Back Belt to CSXT would enter the Gentilly Yard. Rosse/Sinkkanen's explanation for the 28 grain trains simply does not make sense nor align with the other data in this case.

Despite Rosse/Sinkkanen's claims that we do not understand how a .TRAIN file is developed, we understand that conversations with field personnel can be instrumental for understanding precisely how a train is handled, if certain tracks are favorable for certain operations, and other information that cannot be gleaned from electronic data alone on any given day. While conversations with field personnel are helpful for these purposes, conversations should not be relied upon to develop the precise count of trains during a specific time period, the specific consist

[118] *See*, Rosse/Sinkkanen Supplemental VS at p. 18. Rosse/Sinkkanen stated that even though these grain trains operate over the NS line in New Orleans, they do not show up in the NS dispatch data, but for some unstated reason show up in the CSXT .TRAIN file.

[119] *See*, Banks/Guthrie Opening e-workpaper "2019 CSX.xlsx," tab "tef," rows 157 to 191 and 287 to 372.

of each train, or other similar statistics that no field personnel could possibly be expected to remember.

Importantly, there are no records, audio recordings, or notes of any kind from any of these conversations that Amtrak can use to verify these claims. Because CSXT and NS failed to support one of the most basic and fundamental inputs into their analyses, i.e., the number and source of trains in their simulations, their evidence should be rejected.

VII. CONCLUSION

The evidence requested by the Chairman in this phase of the proceeding was clear and concise. The evidence presented by Banks/Guthrie and Rosse/Sinkkanen, to which we responded in this Supplemental Reply VS, did not address the Chairman's requests but rather, presented more of the same unsupported, unverifiable rhetoric included in all previous rounds of the CSXT/NS evidence.

VERIFICATIONS

I, Thomas D. Crowley, verify under penalty of perjury that I have read this Supplemental Reply Verified Statement on behalf of the National Railroad Passenger Corporation, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

Thomas D. Crowley

Executed on 8/31/22

***

I, Daniel L. Fapp, verify under penalty of perjury that I have read this Supplemental Reply Verified Statement on behalf of the National Railroad Passenger Corporation, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

Daniel L. Fapp

Executed on 8-31-22

LIST OF EXHIBITS

Exhibit No.	Exhibit Description
(1)	(2)
12	Banks/Guthrie Supplemental 2019 RTC Simulation Results from Infrastructure Changes
13	Restated Banks/Guthrie RTC Performance Metrics Tables

Banks/Guthrie Supplemental 2019 RTC
Simulation Results From Infrastructure Changes

RTC Case	Average Speed 1/	Delay % 2/	True Delay (Hours) 3/	Delay/ 100 TM 4/
(1)	(2)	(3)	(4)	(5)
BASE CASES				
1. Adjusted Freight Base Case				
a. Regional Amtrak	N/A	N/A	N/A	N/A
b. Amtrak Long Haul	31.9	1.5%	0.3	2.9
c. Yard Trains	3.8	21.6%	56.5	279.6
d. Freight Trains	15.0	23.7%	574.1	76.7
e. All Trains	14.0	23.3%	630.9	81.1
2. Passenger Base Case				
a. Regional Amtrak	39.9	2.0%	2.8	2.9
b. Amtrak Long Haul	29.0	11.9%	2.0	21.9
c. Yard Trains	3.8	22.6%	59.5	294.3
d. Freight Trains	14.3	30.9%	746.6	99.0
e. All Trains	14.5	28.6%	810.9	92.1
INDIVIDUAL IMPACT OF INVESTMENT 5/				
3. FRA Improvements				
a. Regional Amtrak	39.8	2.7%	3.8	3.9
b. Amtrak Long Haul	30.3	6.9%	1.2	12.8
c. Yard Trains	3.8	21.1%	55.4	274.0
d. Freight Trains	14.9	27.5%	654.3	86.8
e. All Trains	15.0	25.5%	714.7	81.2
4. Mobile Station				
a. Regional Amtrak	39.0	4.0%	5.7	5.8
b. Amtrak Long Haul	30.5	6.2%	1.0	11.4
c. Yard Trains	3.7	24.3%	63.9	316.3
d. Freight Trains	14.3	30.9%	747.4	99.1
e. All Trains	14.5	28.8%	818.0	92.9
5. Gentilly Yard Bypass				
a. Regional Amtrak	40.1	1.4%	2.0	2.0
b. Amtrak Long Haul	30.1	7.6%	1.3	14.0
c. Yard Trains	3.9	20.2%	52.8	261.2
d. Freight Trains	14.4	30.2%	729.8	96.8
e. All Trains	14.6	27.7%	785.8	89.3
6. NS Terminal Improvements				
a. Regional Amtrak	38.9	4.5%	6.4	6.6
b. Amtrak Long Haul	32.0	1.7%	0.3	3.2
c. Yard Trains	3.7	24.6%	64.5	319.2
d. Freight Trains	14.3	30.7%	742.4	98.5
e. All Trains	14.5	28.7%	813.6	92.4

(Footnotes on Page 4)

Banks/Guthrie Supplemental 2019 RTC
Simulation Results From Infrastructure Changes

RTC Case	Average Speed 1/	Delay % 2/	True Delay (Hours) 3/	Delay/ 100 TM 4/
(1)	(2)	(3)	(4)	(5)
7. Clairborne Double Track				
a. Regional Amtrak	38.6	3.6%	5.5	5.6
b. Amtrak Long Haul	30.6	6.0%	1.0	11.0
c. Yard Trains	3.7	24.9%	65.5	323.9
d. Freight Trains	14.0	32.0%	787.7	104.5
e. All Trains	14.1	29.7%	859.6	97.7
8. Nicholson Siding Extension				
a. Regional Amtrak	39.6	2.7%	3.9	4.0
b. Amtrak Long Haul	30.5	6.2%	1.0	11.5
c. Yard Trains	3.7	25.2%	66.2	327.6
d. Freight Trains	14.4	30.6%	738.3	97.9
e. All Trains	14.5	28.5%	809.5	92.0
9. Beauvior Double Track				
a. Regional Amtrak	38.7	5.2%	7.5	7.7
b. Amtrak Long Haul	30.2	7.3%	1.2	13.6
c. Yard Trains	3.8	22.4%	58.9	291.5
d. Freight Trains	14.3	30.9%	746.2	99.0
e. All Trains	14.5	28.7%	813.9	92.4
10. Fountainbleau Siding				
a. Regional Amtrak	39.1	4.0%	5.7	5.9
b. Amtrak Long Haul	30.5	6.4%	1.1	11.9
c. Yard Trains	3.7	23.3%	61.3	303.4
d. Freight Trains	14.5	29.3%	707.0	93.8
e. All Trains	14.6	27.3%	775.1	88.0
11. Bayou Cassotte Turnouts				
a. Regional Amtrak	39.6	2.8%	4.0	4.1
b. Amtrak Long Haul	30.5	6.2%	1.0	11.4
c. Yard Trains	3.8	22.2%	58.5	289.2
d. Freight Trains	14.4	30.8%	740.7	98.2
e. All Trains	14.6	28.4%	804.2	91.4
12. Brookley Siding Extension				
a. Regional Amtrak	39.1	4.1%	5.9	6.1
b. Amtrak Long Haul	30.4	6.7%	1.1	12.5
c. Yard Trains	3.8	22.5%	59.2	292.9
d. Freight Trains	14.3	30.9%	747.1	99.1
e. All Trains	14.5	28.6%	813.3	92.4

(Footnotes on Page 4)

Banks/Guthrie Supplemental 2019 RTC
Simulation Results From Infrastructure Changes

RTC Case	Average Speed 1/	Delay % 2/	True Delay (Hours) 3/	Delay/ 100 TM 4/
(1)	(2)	(3)	(4)	(5)
CUMMULATIVE IMPACT OF INVESTMENT 6/				
13. FRA Improvements				
a. Regional Amtrak	39.8	2.7%	3.8	3.9
b. Amtrak Long Haul	30.3	6.9%	1.2	12.8
c. Yard Trains	3.8	21.1%	55.4	274.0
d. Freight Trains	14.9	27.5%	654.3	86.8
e. All Trains	15.0	25.5%	714.7	81.2
14. Mobile Station				
a. Regional Amtrak	39.7	2.6%	3.7	3.8
b. Amtrak Long Haul	30.2	7.5%	1.3	13.8
c. Yard Trains	3.8	20.3%	53.4	263.9
d. Freight Trains	14.9	27.6%	657.8	87.2
e. All Trains	15.0	25.5%	716.0	81.3
15. Gentilly Yard Bypass				
a. Regional Amtrak	40.3	1.0%	1.4	1.4
b. Amtrak Long Haul	30.4	6.5%	1.1	12.0
c. Yard Trains	3.8	20.3%	53.4	264.1
d. Freight Trains	14.8	28.7%	684.2	90.7
e. All Trains	14.9	26.4%	740.1	84.1
16. NS Terminal Improvements				
a. Regional Amtrak	40.4	0.7%	1.0	1.1
b. Amtrak Long Haul	32.0	1.6%	0.3	3.0
c. Yard Trains	3.8	21.9%	57.5	284.5
d. Freight Trains	14.9	27.9%	664.0	88.0
e. All Trains	15.0	25.8%	722.8	82.1
17. Clairborne Double Track				
a. Regional Amtrak	39.5	1.8%	2.6	2.7
b. Amtrak Long Haul	31.9	2.2%	0.4	4.0
c. Yard Trains	3.8	22.4%	58.8	291.1
d. Freight Trains	14.6	28.1%	681.4	90.4
e. All Trains	14.7	26.1%	743.2	84.4
18. Nicholson Siding Extension				
a. Regional Amtrak	39.0	2.2%	3.4	3.5
b. Amtrak Long Haul	31.8	2.5%	0.4	4.6
c. Yard Trains	3.8	22.0%	57.7	285.4
d. Freight Trains	14.3	31.1%	753.5	99.9
e. All Trains	14.4	28.6%	814.9	92.6

(Footnotes on Page 4)

Banks/Guthrie Supplemental 2019 RTC
Simulation Results From Infrastructure Changes

RTC Case	Average Speed 1/	Delay % 2/	True Delay (Hours) 3/	Delay/ 100 TM 4/
(1)	(2)	(3)	(4)	(5)
19. Beauvior Double Track				
a. Regional Amtrak	38.6	4.1%	6.1	6.3
b. Amtrak Long Haul	31.9	2.1%	0.3	3.8
c. Yard Trains	3.8	21.7%	56.9	281.6
d. Freight Trains	14.5	28.7%	695.8	92.3
e. All Trains	14.7	26.6%	759.2	86.2
20. Fountainbleau Siding				
a. Regional Amtrak	39.3	2.4%	3.6	3.8
b. Amtrak Long Haul	31.8	2.4%	0.4	4.4
c. Yard Trains	3.8	21.3%	56.0	276.9
d. Freight Trains	14.7	27.3%	661.7	87.7
e. All Trains	14.8	25.3%	721.7	82.0
21. Bayou Cassotte Turnouts				
a. Regional Amtrak	40.0	0.5%	0.8	0.8
b. Amtrak Long Haul	31.8	2.4%	0.4	4.4
c. Yard Trains	3.8	20.9%	55.0	272.1
d. Freight Trains	14.6	28.2%	679.9	90.2
e. All Trains	14.8	25.9%	736.1	83.6
22. Brookley Siding Extension				
a. Regional Amtrak	39.4	1.7%	2.6	2.6
b. Amtrak Long Haul	31.8	2.5%	0.4	4.7
c. Yard Trains	3.8	21.3%	55.9	276.4
d. Freight Trains	14.6	28.7%	692.4	91.8
e. All Trains	14.7	26.4%	751.2	85.3

1/ The simple average of all train speeds within a train category taking into consideration all delays. Amtrak average train speeds shown above should not be confused with the Amtrak system average train speeds required under 49 U.S.C. 24101.

2/ The total delay time represented as a percent of total transit time.

3/ Aggregate delay time by train type in hours.

4/ Measures delays on a normalized 100 train mile basis taking into consideration the impact on long-haul through trains and short distance local trains.

5/ Measures the change of each individual investment category using the Line 2 Passenger Base Case as the starting point.

6/ Measures the cumulative change in the investment categories beginning with the Line 2 Passenger Base Case.

Exhibit No. 13

Restated Banks/Guthrie Tables Summarizing the Statistics Underlying The Banks/Guthrie Developed/Presented Percent Changes

Restated Table 1: 2019 Impairment with Passenger Trains

% Change in Modeled Freight Train Delay / 100 Train Miles 1/		% Change in Modeled Freight Train Speed 2/		% Change in Dispatching Conflicts 3/		% Change in Delay to Other New Orleans Railroads 4/		% Change in In Recrews 5/	
83.1		14.8		7,803		29,727		273	
102.0	↑	14.1	↓	10,776	↑	39,701	↑	376	↑
22.7%		-4.5%		38.1%		33.6%		37.7%	

Source: Banks/Guthrie Opening e-workpaper "Freight.xlsx," tab "AGGREGATE."
1/ Average delay in minutes per train from 30 simulations.
2/ Average miles per hour per train from 30 simulations.
3/ Average gross RTC conflicts per run from 30 simulations.
4/ Total delay in minutes from 30 simulations.
5/ Total recrews from 30 simulations.

Restated Table 2: 2019 Impairment with Passenger Trains and FRA Identified Projects

% Change in Modeled Freight Train Delay / 100 Train Miles 1/	% Change in Modeled Freight Train Speed 2/	% Change in Dispatching Conflicts 3/	% Change in Delay to Other New Orleans Railroads 4/	% Change in In Recrews 5/
83.1	14.8	7,727	29,727	273
91.3	14.5	10,083	37,164	355
9.9%	-1.9%	30.5%	25.0%	30.0%

Source: Banks/Guthrie Supplemental e-workpaper "FRA Analysis.xlsx," tab "AGGREGATE."
1/ Average delay in minutes per train from 30 simulations.
2/ Average miles per hour per train from 30 simulations.
3/ Average gross RTC conflicts per run from 30 simulations.
4/ Total delay in minutes from 30 simulations.
5/ Total recrews from 30 simulations.

Restated Table 3: Freight Train Impairment with Passenger Trains

	TRAIN PROFILE	2019 No Passenger Delay	2019 with Passenger Delay	CHANGE IN DELAY/100	% CHANGE IN DELAY/100	2019 No Passenger Speed	2019 with Passenger Speed	CHANGE IN SPEED	% CHANGE IN SPEED	2019 No Passenger Variability	2019 with Passenger Variability	CHANGE IN VARIABILITY	% CHANGE IN VARIABILITY
CSX Local Trains	CSXT 1	139.2	127.6	-11.5	-8.3%	6.7	6.7	0.0	0.5%	13.1	13.6	0.4	3.3%
	CSXT 2	153.6	341.5	187.9	122.4%	8.2	6.6	-1.7	-20.4%	101.3	107.0	5.7	5.6%
	CSXT 3	170.6	280.8	110.2	64.6%	4.5	4.1	-0.4	-8.3%	91.4	117.6	26.1	28.6%
	CSXT 4	38.7	79.9	41.2	106.5%	18.2	16.2	-2.1	-11.3%	28.6	46.8	18.1	63.3%
	CSXT 5	66.5	103.0	36.4	54.7%	12.3	11.5	-0.8	-6.6%	69.8	66.7	-3.1	-4.4%
	TASD	316.0	422.2	106.2	33.6%	4.7	4.4	-0.4	-7.8%	28.1	34.4	6.2	22.1%
	CSXT LOCAL TOTAL	91.6	133.3	41.6	**45.4%**	10.4	9.7	-0.7	**-6.9%**	186.5	211.5	25.0	13.4%
CSX Through Trains	CSXT A	45.9	48.2	2.3	4.9%	19.6	19.5	-0.1	-0.7%	112.1	119.9	7.8	7.0%
	CSXT B	58.2	64.2	6.0	10.3%	21.8	21.4	-0.4	-1.9%	127.0	137.4	10.4	8.2%
	CSXT C	48.6	51.6	3.0	6.1%	24.3	24.0	-0.3	-1.4%	107.5	119.0	11.5	10.7%
	CSXT D	38.3	58.8	20.5	53.7%	26.5	24.2	-2.3	-8.6%	109.1	148.9	39.8	36.5%
	CSXT E	58.3	79.7	21.4	36.7%	22.3	20.7	-1.7	-7.4%	94.2	98.9	4.7	5.0%
	CSXT F	45.3	79.4	34.1	75.2%	21.6	19.2	-2.3	-10.8%	96.0	122.1	26.1	27.2%
	CSXT G	45.3	54.0	8.8	19.4%	21.2	20.4	-0.7	-3.5%	146.2	156.8	10.6	7.2%
	CSXT H	48.9	63.6	14.8	30.3%	24.1	22.8	-1.4	-5.8%	100.7	90.9	-9.8	-9.7%
	COAL	75.6	96.0	20.3	26.9%	17.2	16.2	-1.0	-5.5%	112.4	129.8	17.4	15.5%
	CSXT THROUGH TOTAL	48.3	60.8	12.5	**25.9%**	21.6	20.7	-0.9	**-4.4%**	334.7	356.4	21.6	6.5%
NS Trains	NSR A	17.8	13.6	-4.2	-23.5%	7.1	7.1	0.0	0.0%	11.2	10.3	-1.0	-8.5%
	NSR B	22.2	26.3	4.2	18.8%	17.7	17.5	-0.2	-1.1%	7.2	8.7	1.5	21.3%
	NSR C	10.0	11.9	1.9	19.1%	7.4	7.4	0.0	-0.3%	9.6	10.5	0.8	8.5%
	NSR D	511.7	562.7	51.0	10.0%	5.4	5.1	-0.2	-4.3%	33.8	56.8	23.1	68.3%
	NSR E	256.6	323.3	66.7	26.0%	4.5	4.3	-0.2	-4.9%	78.0	82.8	4.7	6.0%
	NSR F	234.0	199.9	-34.1	-14.6%	3.8	3.8	0.1	1.9%	47.3	44.1	-3.2	-6.8%
	NSR G	169.5	234.1	64.5	38.0%	3.5	3.4	-0.1	-3.7%	100.4	117.8	17.4	17.3%
	NSR H	325.7	281.3	-44.4	-13.6%	3.7	3.8	0.1	3.2%	94.6	105.7	11.1	11.8%
	INTERCHANGE	396.4	439.8	43.4	10.9%	6.7	6.4	-0.3	-4.3%	67.4	72.2	4.8	7.1%
	NSR TOTAL	438.7	471.1	32.4	**7.4%**	4.4	4.3	-0.1	**-2.3%**	152.1	156.9	4.8	3.2%
OVERALL		**83.1**	**102.0**	**18.9**	**22.7%**	**14.8**	**14.1**	**-0.7**	**-4.5%**	**287.9**	**306.7**	**18.9**	**6.6%**

Source: Banks/Guthrie Opening e-workpaper "FREIGHT.xlsx," tab "FREIGHT"

Restated Table 4: 2019 Freight Train Impairment with Passenger Trains and FRA Identified Projects

	TRAIN PROFILE	2019 No Passenger Delay	2019 with Passenger Delay	CHANGE IN DELAY/100	% CHANGE IN DELAY/100	2019 No Passenger Speed	2019 with Passenger Speed	CHANGE IN SPEED	% CHANGE IN SPEED	2019 No Passenger Variability	2019 with Passenger Variability	CHANGE IN VARIABILITY	% CHANGE IN VARIABILITY
CSX Local Trains	CSXT 1	139.2	174.1	34.9	25.1%	6.7	6.5	-0.1	-2.0%	24.8	13.1	11.6	88.6%
	CSXT 2	153.6	235.0	81.4	53.0%	8.2	7.6	-0.6	-7.4%	98.1	101.3	-3.1	-3.1%
	CSXT 3	170.6	225.2	54.6	32.0%	4.5	4.5	0.0	-0.2%	102.9	91.4	11.4	12.5%
	CSXT 4	38.7	55.0	16.3	42.1%	18.2	17.3	-0.9	-4.9%	42.0	28.6	13.4	46.8%
	CSXT 5	66.5	59.7	-6.9	-10.3%	12.3	12.6	0.2	1.8%	41.0	69.8	-28.7	-41.2%
	TASD	316.0	327.2	11.2	3.6%	4.7	4.7	0.0	-0.8%	28.1	28.1	0.0	0.0%
	CSXT LOCAL TOTAL	91.6	107.9	16.2	**17.7%**	10.4	10.2	-0.2	**-2.0%**	186.5	194.8	-8.3	-4.2%
CSX Through Trains	CSXT A	45.9	44.2	-1.7	-3.8%	19.6	19.7	0.1	0.5%	112.2	112.1	0.1	0.1%
	CSXT B	58.2	59.6	1.4	2.4%	21.8	21.6	-0.2	-0.9%	136.9	127.0	9.9	7.8%
	CSXT C	48.6	55.0	6.3	13.0%	24.3	23.7	-0.6	-2.5%	138.9	107.5	31.3	29.1%
	CSXT D	38.3	52.7	14.5	37.9%	26.5	24.8	-1.7	-6.2%	135.4	109.1	26.3	24.1%
	CSXT E	58.3	62.2	3.9	6.8%	22.3	22.0	-0.3	-1.4%	94.3	94.2	0.2	0.2%
	CSXT F	45.3	64.9	19.6	43.2%	21.6	20.1	-1.5	-7.0%	126.2	96.0	30.2	31.5%
	CSXT G	45.3	51.3	6.0	13.3%	21.2	20.6	-0.6	-2.6%	175.9	146.2	29.7	20.3%
	CSXT H	48.9	53.1	4.2	8.6%	24.1	23.7	-0.4	-1.7%	98.9	100.7	-1.8	-1.8%
	COAL	75.6	84.7	9.0	11.9%	17.2	16.8	-0.4	-2.6%	114.5	112.4	2.1	1.8%
	CSXT THROUGH TOTAL	48.3	54.1	5.8	**12.1%**	21.6	21.1	-0.5	**-2.2%**	334.7	346.8	-12.1	-3.5%
NS Trains	NSR A	17.8	14.4	-3.4	-18.9%	7.1	7.1	0.0	0.0%	10.3	11.2	-0.9	-7.9%
	NSR B	22.2	25.5	3.3	15.0%	17.7	17.7	0.0	-0.2%	7.8	7.2	0.6	7.7%
	NSR C	10.0	8.8	-1.2	-12.1%	7.4	7.5	0.0	0.7%	9.1	9.6	-0.5	-5.7%
	NSR D	511.7	568.6	56.8	11.1%	5.4	5.1	-0.3	-4.7%	59.6	33.8	25.9	76.6%
	NSR E	256.6	308.3	51.7	20.2%	4.5	4.3	-0.2	-3.8%	80.7	78.0	2.7	3.4%
	NSR F	234.0	227.5	-6.5	-2.8%	3.8	3.7	0.0	-0.3%	49.8	47.3	2.5	5.2%
	NSR G	169.5	234.2	64.7	38.2%	3.5	3.4	-0.1	-3.4%	118.1	100.4	17.7	17.7%
	NSR H	325.7	289.0	-36.7	-11.3%	3.7	3.8	0.1	2.7%	104.6	94.6	10.0	10.5%
	INTERCHANGE	396.4	400.2	3.8	1.0%	6.7	6.7	0.0	-0.1%	66.1	67.4	-1.3	-1.9%
	NSR TOTAL	438.7	453.7	15.0	**3.4%**	4.4	4.3	0.0	**-0.9%**	152.1	156.1	-4.0	-2.6%
OVERALL		**83.1**	**91.3**	**8.26**	**9.9%**	**14.80**	**14.52**	**-0.28**	**-1.9%**	**287.71**	**296.82**	**-9.11**	**-3.1%**

Source: Banks/Guthrie Supplemental e-workpaper "FRA Analysis.xlsx," tab "FREIGHT"

Restated Table 5: 2039 Impairment with Passenger Trains and FRA Identified Projects

% Change in Modeled Freight Train Delay / 100 Train Miles 1/		% Change in Modeled Freight Train Speed 2/		% Change in Dispatching Conflicts 3/		% Change in Delay to Other New Orleans Railroads 4/		% Change in In Recrews 5/	
101.4		13.4		11,054		42,507		338	
113.9	↑	13.1	↓	15,818	↑	54,493	↑	417	↑
12.3%		-2.7%		43.1%		28.2%		23.4%	

Source: Banks/Guthrie Supplemental e-workpaper "FRA Analysis.xlsx," tab "AGGREGATE."
1/ Average delay in minutes per train from 30 simulations.
2/ Average miles per hour per train from 30 simulations.
3/ Average gross RTC conflicts per run from 30 simulations.
4/ Total delay in minutes from 30 simulations.
5/ Total recrews from 30 simulations.

Restated Table 6: 2039 Freight Train Impairment with Passenger Trains and FRA Identified Projects

	TRAIN PROFILE	2039 No Passenger Delay	2039 with Passenger Delay	CHANGE IN DELAY/100	% CHANGE IN DELAY/100	2039 No Passenger Speed	2039 with Passenger Speed	CHANGE IN SPEED	% CHANGE IN SPEED	2039 No Passenger Variability	2039 with Passenger Variability	CHANGE IN VARIABILITY	% CHANGE IN VARIABILITY
CSX Local Trains	CSXT 1	193.3	150.3	-43.0	-22.2%	6.5	6.6	0.1	2.3%	19.8	16.5	3.2	19.6%
	CSXT 2	224.9	265.6	40.8	18.1%	7.7	7.3	-0.4	-5.7%	106.7	111.4	-4.7	-4.2%
	CSXT 3	293.5	282.9	-10.6	-3.6%	3.9	4.1	0.2	5.9%	113.5	120.2	-6.7	-5.6%
	CSXT 4	64.1	80.3	16.2	25.3%	15.2	14.6	-0.6	-4.0%	60.8	54.2	6.6	12.1%
	CSXT 5	75.2	79.2	4.0	5.3%	12.0	11.9	-0.1	-0.9%	48.2	44.7	3.6	8.0%
	TASD	555.8	693.0	137.1	24.7%	3.8	3.5	-0.3	-8.1%	50.5	38.0	12.5	32.9%
	CSXT LOCAL TOTAL	126.1	143.6	17.5	**13.9%**	9.3	9.1	-0.2	**-2.4%**	191.3	194.1	-2.8	-1.5%
CSX Through Trains	CSXT A	50.9	56.2	5.2	10.3%	18.9	18.5	-0.4	-2.2%	126.7	120.8	5.9	4.8%
	CSXT B	62.9	75.5	12.6	20.0%	19.5	18.8	-0.7	-3.8%	159.0	111.2	47.8	43.0%
	CSXT C	75.5	79.7	4.1	5.4%	20.1	19.8	-0.3	-1.4%	148.0	143.7	4.3	3.0%
	CSXT D	59.0	73.5	14.5	24.6%	24.2	23.0	-1.3	-5.2%	166.8	156.1	10.7	6.9%
	CSXT E	72.2	82.6	10.4	14.4%	21.8	21.0	-0.8	-3.7%	118.2	108.4	9.7	9.0%
	CSXT F	47.8	74.0	26.2	54.9%	21.5	19.6	-1.9	-8.9%	125.1	96.9	28.2	29.1%
	CSXT G	52.7	59.4	6.7	12.7%	20.2	19.8	-0.4	-2.2%	152.0	124.1	27.9	22.5%
	CSXT H	53.8	58.2	4.4	8.2%	22.0	21.6	-0.4	-1.7%	96.9	103.8	-6.9	-6.7%
	COAL	103.5	121.8	18.3	17.7%	15.9	15.1	-0.8	-4.7%	169.0	122.3	46.6	38.1%
	CSXT THROUGH TOTAL	58.1	67.4	9.3	**16.0%**	20.3	19.7	-0.6	**-3.1%**	361.1	378.3	-17.2	-4.5%
NS Trains	NSR A	88.0	78.8	-9.2	-10.4%	6.6	6.6	0.1	0.9%	25.2	29.8	-4.6	-15.6%
	NSR B	90.7	82.8	-8.0	-8.8%	14.9	15.1	0.3	1.8%	16.6	22.1	-5.4	-24.6%
	NSR C	23.6	18.9	-4.7	-19.7%	7.3	7.3	0.0	0.4%	13.2	15.5	-2.3	-14.7%
	NSR D	599.1	589.3	-9.8	-1.6%	5.0	5.0	0.0	0.6%	45.3	51.8	-6.4	-12.4%
	NSR E	297.8	361.1	63.3	21.3%	4.4	4.2	-0.2	-4.6%	82.4	89.3	-6.9	-7.7%
	NSR F	178.2	207.6	29.4	16.5%	3.9	3.8	-0.1	-1.3%	39.7	40.2	-0.5	-1.1%
	NSR G	272.7	312.0	39.3	14.4%	3.6	3.5	-0.1	-2.8%	100.8	103.0	-2.2	-2.1%
	NSR H	228.3	191.3	-37.0	-16.2%	3.9	4.0	0.1	2.3%	85.5	88.1	-2.7	-3.0%
	INTERCHANGE	572.9	629.2	56.3	9.8%	5.6	5.3	-0.3	-5.2%	83.1	79.6	3.5	4.4%
	NSR TOTAL	433.3	463.9	30.6	**7.1%**	4.3	4.2	-0.1	**-2.1%**	134.9	136.5	-1.7	-1.2%
	OVERALL	**101.4**	**113.9**	**12.5**	**12.3%**	**13.4**	**13.1**	**-0.4**	**-2.7%**	**292.53**	**302.29**	**-9.76**	-3.1%

Source: Banks/Guthrie Supplemental e-workpaper "FRA Analysis.xlsx," tab "FREIGHT"

tated Table 7: 2019 Impairment with Passenger Trains and "Adjusted" FRA Identified Proj

% Change in Modeled Freight Train Delay / 100 Train Miles 1/	% Change in Modeled Freight Train Speed 2/	% Change in Dispatching Conflicts 3/	% Change in Delay to Other New Orleans Railroads 4/	% Change in In Recrews 5/
83.1	14.8	7,727	29,727	273
91.3	14.5	10,047	38,722	349
9.9%	-1.9%	30.0%	30.3%	27.8%

Source: Banks/Guthrie Supplemental e-workpaper "FRA Analysis.xlsx," tab "AGGREGATE."
1/ Average delay in minutes per train from 30 simulations.
2/ Average miles per hour per train from 30 simulations.
3/ Average gross RTC conflicts per run from 30 simulations.
4/ Total delay in minutes from 30 simulations.
5/ Total recrews from 30 simulations.

tated Table 8: 2039 Impairment with Passenger Trains and "Adjusted" FRA Identified Proj

% Change in Modeled Freight Train Delay / 100 Train Miles 1/	% Change in Modeled Freight Train Speed 2/	% Change in Dispatching Conflicts 3/	% Change in Delay to Other New Orleans Railroads 4/	% Change in In Recrews 5/
101.4	13.4	11,054	42,507	338
115.2	13.1	15,789	58,482	428
13.6%	-2.8%	42.8%	37.6%	26.6%

Source: Banks/Guthrie Supplemental e-workpaper "FRA Analysis.xlsx," tab "AGGREGATE."
1/ Average delay in minutes per train from 30 simulations.
2/ Average miles per hour per train from 30 simulations.
3/ Average gross RTC conflicts per run from 30 simulations.
4/ Total delay in minutes from 30 simulations.
5/ Total recrews from 30 simulations.

EXHIBIT B

Public Version

BEFORE THE

SURFACE TRANSPORTATION BOARD

)	
)	
)	**Application of the National Railroad**
)	**Passenger Corporation Under**
)	**Docket No. FD 36496**
)	**49 U.S.C. § 24308(e) – CSX**
)	**Transportation, Inc., and Norfolk**
)	**Southern Corporation**
)	

Supplemental Reply Verified Statement

of

Clayton S. Johanson
Principal Consultant

and

Darkhan Mussanov
Senior Consultant

DB E.C.O. North America, Inc.

Engineering and Consulting Services

On Behalf of

The National Railroad Passenger Corporation

Public Version

Introduction

We are Clayton S. Johanson, Principal Consultant and Darkhan Mussanov, Senior Consultant with DB E.C.O. North America, Inc. We are the same Clayton Johanson and Darkhan Mussanov that previously provided a reply verified statement, a surrebuttal verified statement, and a supplemental verified statement in Surface Transportation Board ("STB") Docket No. FD 36496, *Application of The National Railroad Passenger Corporation Under 49 U.S.C. § 24308(E) – CSX Transportation, Inc. And Norfolk Southern Corporation*. Our qualifications are set out comprehensively in the verified statements submitted previously in this proceeding.

The DB E.C.O. NA ("DB") team were retained as experts by the National Railroad Passenger Corporation ("Amtrak") to analyze the railroad capacity implications of the proposed addition of Amtrak's Gulf Coast Service on CSX Transportation, Inc. ("CSX") and Norfolk Southern Railway Company ("NSR"). More specifically, DB was retained to analyze the implications of the proposed Gulf Coast Service on a corridor that begins with CSX's New Orleans & Mobile ("NO&M") Subdivision,[1] continues onto NSR's Back Belt Line,[2] and concludes at Amtrak's New Orleans Union Passenger Terminal ("NOUPT"). DB refers to this corridor as the Gulf Coast Corridor.

DB is a subsidiary of Deutsche Bahn AG, the German Federal Railway company. The organization is engaged in operations, planning, management, and engineering consulting services to the freight rail, passenger rail, and transit industry, and is based in Sacramento, California. The

[1] The NO&M Subdivision runs from Sibert Yard in Mobile to NOT Junction in New Orleans.

[2] The Back Belt Line runs from East Bridge Junction to East City Junction in New Orleans.

organization has been active in the United States since 2017 and has developed a diverse portfolio of clients spanning the North American continent.

Assignment and Summary of Findings

Amtrak asked DB to review the July 27, 2022 filings from CSX and NSR in light of DB's prior work on this matter.

DB concentrated on three areas and reached the following conclusions:

- Recrew rates do not necessarily impact customer service. CSX has not offered any direct quantifiable evidence that Amtrak Gulf Coast service will negatively impact shippers.
- The methodology CSX and NS used to evaluate recrew rates is flawed and results in erroneously attributing recrew events to the addition of the Gulf Coast Service when the actual root cause is that the working hours of CSX crews on the corridor have lengthened over the past three years when there has been no passenger service on the corridor.
- The fluctuations in velocity reported by CSX and NS as a result of the operational changes they tested (shortening freight trains and modifying movable bridge operations) are consistent with fluctuations in velocity experienced by CSX and NS on comparable corridors.

Public Version

CSX has not shown direct quantifiable evidence that Amtrak Gulf Coast service will negatively impact shippers

In an attempt to address the STB Chairman's concerns regarding the impact to local freight rail customers on the Gulf Coast Corridor, CSX and its experts utilized train recrew events as a proxy for customer impact. A recrew event is the result of a train crew failing to reach its intended destination within the 12 maximum working hours as defined by federal regulation.[3]

The conclusion of this recrew analysis by CSX and its experts mischaracterizes the effects of recrew events on external railroad customers, and the methodology they employed is flawed.

Instead of using data based on handling of individual cars to and from local industries, CSX instead offered only a train-based metric, which has no relevance or direct correlation to the issue of customer impact. The metric CSX provided to measure freight customer service impacts is number of recrew events per day on local and merchandise trains. This is a flawed, indirect approach that does not address the STB Chairman's request for more targeted data on how reintroduction of Amtrak Gulf Coast service might directly impact local shippers.

The only connection CSX and its experts attempt to make between recrews and customer service is a conceptual one, framed around a concept that "a local train that experiences a multi-hour delay due to an unplanned recrew of another, stalled train, or loses its crew altogether to a higher priority train, will inevitably fail to serve all of its customers on a given day."[3]

As will be discussed, recrew events are an effect, not a root cause, of delays on a corridor. In the event that recrew events do increase, and the railroad is unwilling or unable to address the root cause of the issues, an adequately resourced railroad would allocate additional

[3] VS Banks and Guthrie Supplemental at 16.

crews to the local crew base or reconfigure service to improve reliability rather than accept the situation as the new reality.

From the perspective of an individual rail shipper, the only metric that truly matters is the time a rail car arrives and departs the shipper's property. Shippers generally are agnostic with regard to how exactly a railcar travels to and from their facility. All rail customers are aware that some level of variability is inherent in North American freight rail operations, and generally they do not demand that rail cars arrive, for example, at exactly 6 PM every Monday. Dependent on the exact customer, there is a certain amount of variability reflected in the windows of time when a railroad promises it will deliver or pick up a rail car. These windows are measured in hours (for the most demanding customers) or in days (for customers with more flexibility). Therefore, the only direct measurement of customer service is if railcars arrive at or depart from the shipper within the agreed parameters. CSX measures customer plan compliance and performance in the spot and pull of cars from customer facilities using a Customer Switch Data ("CSD") metric. DB previously analyzed CSX's performance using this CSD metric and found that CSX is still able to achieve 100% CSD compliance in the 2019 Passenger Case (i.e., after Amtrak service is restored).[4]

Given that CSX has argued that the need to recrew negatively impacts service to local customers, DB compared the crew start data provided by CSX with their CSD metric for the period of January 1, 2019, through August 30, 2021. In the analysis, DB looked at CSD for all days and observed that the CSD metric in that measurement period ranged anywhere between 0% and 100%. For that same date range, the median daily number of crew starts was 18, with a range in the measurement period of between 12 and 23 crew starts daily.

[4] Supp. Verified Statement ("VS") of Johanson & Mussanov at 11-16.

DB found that on the days that CSX reported 100% compliance with the customer expectations, as reported by its CSD metric, the median number of individual crew starts on the subdivision was 17.

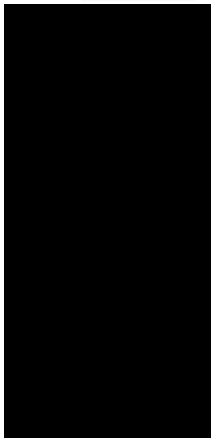


Figure 1 - CSX crew starts on 0-99% CSD days

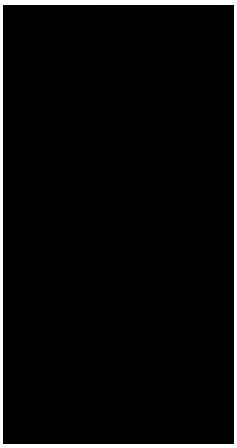


Figure 2 - CSX crew starts on 100% CSD days

Therefore, the number of crew starts necessary to provide 100% CSD is virtually the same as the number of crews starts utilized to provide less than 100% CSD performance. DB believes the use of recrew events as a measure of customer service performance for local customers is not an accurate measurement of potential degradation of local customer service performance. It is the substitution of an internal crew productivity metric for a customer centric measurement, and it does not provide a fair representation of the potential effect on customers from the re-introduction of passenger service to the corridor.

The methodology CSX and NS used to evaluate recrew rates is flawed and results in erroneously attributing recrew events to the addition of the Gulf Coast Service when the actual root cause is that the working hours of CSX crews on the corridor have lengthened over the past three years when there has been no passenger service on the corridor.

Unplanned recrew events of freight trains can add additional delay to individual trains. However, they are not themselves a *source* of congestion as characterized in the CSX/NSR report.[5] Rather, unplanned recrew events are a *symptom* resulting from previous delay events on a rail corridor. Those previous delay events could include a host of factors, including things such as excessive initial terminal dwell, mechanical failures, service interruptions, and more trains competing for a limited set of available track capacity.

It is true that as a train nears a 12-hour maximum hours of service threshold a train dispatcher will increase priority to avoid the train exceeding the hours of service.[6] However, the resulting conclusion articulated by CSX and NSR's experts that giving priority to a train nearing the hours of service creates congestion and a corresponding adverse effect on other traffic in the corridor is overly simplistic.

DB considers it important to note that high levels of traffic that cause congestion on a railroad are not inherently bad. Congestion is the inevitable result of a railroad that is operated with a high degree of variability in terms of daily train count, train lengths, and the time-of-day a train enters the corridor. Given this condition, the train dispatcher's responsibility is to manage the variability and its corresponding effects on the operation. The train dispatcher accomplishes this by constantly planning and re-planning as conditions change. In this example, delaying one train to prioritize a different train that is short on remaining time under the hours-of-service law

[5] RTC Supplemental Report at 32.
[6] *Id.*

often becomes the right decision. This type of scenario occurs every day on every railroad. The delayed train may have encountered "congestion," but it still reached the next terminal within the limits of the hours-of-service law. Thus, the overall effects are minimized, and the corresponding effect on the total corridor becomes fundamentally insignificant. The net effect on local customers in this case is literally non-existent.

The Supplemental RTC Report characterizes recrew events as "unplanned."[7] That may be true from a financial perspective in that it requires more resources than budgeted to deliver service, but "unplanned" recrew events are rare. Unplanned recrew events are typically the result of a significant supplementary event such as a grade crossing accident, derailment, or act of God.

The balance of recrew events is known in advance. The twelve-hour clock starts the moment the employees report for duty. Crews nearing the limits of the hours-of-service regulations in these scenarios are often the result of initial terminal dwell, excessive or unplanned enroute work events, failing to properly prioritize a train, or simply oversubscribing the capacity of the railroad at a particular point in time.

A railroad with chronic issues with twelve-hour crews would resolve the problem in the short term by either adding additional personnel resources and locomotives, or re-planning the operation to distribute the demand to match the available capacity.

The Supplemental RTC report attempted to quantify the impact of the proposed Gulf Coast Service as measured by the RTC model. CSX's experts applied a percentage increase in runtime between the 2019 F and 2019 P models (i.e., the difference from adding the Gulf Coast Service). They then applied this simulated RTC difference to actual OS data from the period January 1, 2019, through March 31, 2022.[8] The Supplemental RTC Report uses a calculated

[7] *Id.*
[8] *Id.* at 32-33.

15.5% differences in Line-of-Road (LOR) run-time between the 2019 F and 2019 P models, which it then applied against real world run times from the period 2019 through 2022.[9] Applying simulated percentage differences between 2019-based RTC models to later actual data from 2019 to 2022 is a flawed analysis that amplifies differences in CSX operations in the intervening years, differences in the operation, and operational results that are not related to the presence of the Gulf Coast Service.

As shown in Table 1, since 2019, train length on through freight trains has grown by 34%, or [redacted] feet on the NO&M Subdivision. Concurrently, total daily train count is down 10%, or a reduction of [redacted] trains per day, while velocity has decreased by 28%, or [redacted] mph. The fewer trains on the corridor are longer and slower in 2021 than they were in 2019. These factors alone could contribute to changes in crew line-of-road time as described on page 34 of the Supplemental RTC Report.

Table 1 CSX NO&M Subdivision performance metrics

[redacted]

In the period 2019 through 2021, the percentage of CSX merchandise trains recrewed on the NO&M Subdivision increased by a factor of three ([redacted]% in 2019 to [redacted]% in 2021)[10]. These increases took place without any Amtrak service being present on the corridor. If more merchandise trains are being recrewed, it's due to longer trains and associated increase in On-Duty to Departure (ODToD) Times.

[9] RTC Supplemental Report at 37.
[10] *Id.*, Table 5-5.

Figure 3 - CSX crew times from 2019 to 2022

The methodology CSX and its team employed then further lengthened an already longer Line-of-Road run time by an additional 15.5%, which resulted in further additional trains exceeding the hours of service. CSX and its team then attributed the need for those recrew events entirely to the addition of the Gulf Coast Service. However, the root cause is that the working hours of CSX crews on the corridor have lengthened in the past three years, in the continued absence of passenger service on the corridor (Figure 3). It is incorrect and misleading to attribute the need for more recrew events to the addition of Amtrak service.

The fluctuations in velocity reported by CSX and NS as a result of the operational changes they tested (shortening freight trains) are consistent with fluctuations in velocity experienced by CSX and NS on comparable corridors

CSX and NSR's experts considered a very narrow range of operational changes that could offset the need to construct hundreds of millions of dollars in new infrastructure, qualitatively claiming that they "identified no obvious freight schedule modifications that would

reduce conflicts with passenger trains"[11] without providing any sort of detailed stringline or conflict analysis. The only scheduling change CSX and NSR were willing to test, solely because of a direct inquiry from the STB Chairman, is reducing train length by splitting two existing trains into four shorter trains for their run across the NO&M Subdivision. CSX and NSR's modelers decided to split and combine trains in Mobile to avoid affecting other CSX corridors, explaining that "[a]ny increase in the number of trains on those [other CSX] corridors would result in additional delays."[12] This statement already presumes the experiment's outcome by assuming that increases in train count always leads to significantly degraded performance, regardless of factors like scheduling, train length and availability of sidings. With this mindset, CSX and NSR's experts ran two additional RTC scenarios (2019 P Length and 2039 P Length) to simulate the effects of running shorter trains with Amtrak Gulf Coast service and freight traffic in 2019 and 2039.

In the Supplemental Verified Statement provided by DB in these proceedings, DB compared velocity metrics for six CSX subdivisions comparable to the NO&M Subdivision with respect to current Amtrak train count and proportion of single track through flat terrain.[13] Additionally, DB compared the Back Belt Line to six segments on NSR selected by both Amtrak and NSR.[14] DB reported that on three of the CSX Subdivisions, daily average train velocity was within a standard deviation of the NO&M Subdivision. Comparatively, one subdivision was slower than a standard deviation and two were faster than a standard deviation of the same measurement of train velocity. On NSR, four of the selected segments had average freight train velocity within a standard deviation and two reported higher average train speeds.

[11] CSX Transportation, Inc.'s and Norfolk Southern Railway Company's Supplemental Evidence at 36
[12] RTC Supplemental Report at 19
[13] Supp. VS of Johanson and Mussanov at 4-8.
[14] Supp. VS of Johanson and Mussanov at 8-11.

As shown in **Figures 4 and 5**, the operational changes explored in the 2019 and 2039 P Length scenarios produced average train velocities that are well within a standard deviation of current performance on the NO&M Subdivision and similar locations on the NSR and CSX networks. This indicates that there are feasible operational changes, such as operating trains with lengths short enough to use existing siding infrastructure, that can be made while maintaining a level of fluidity acceptable to the freight railroads.

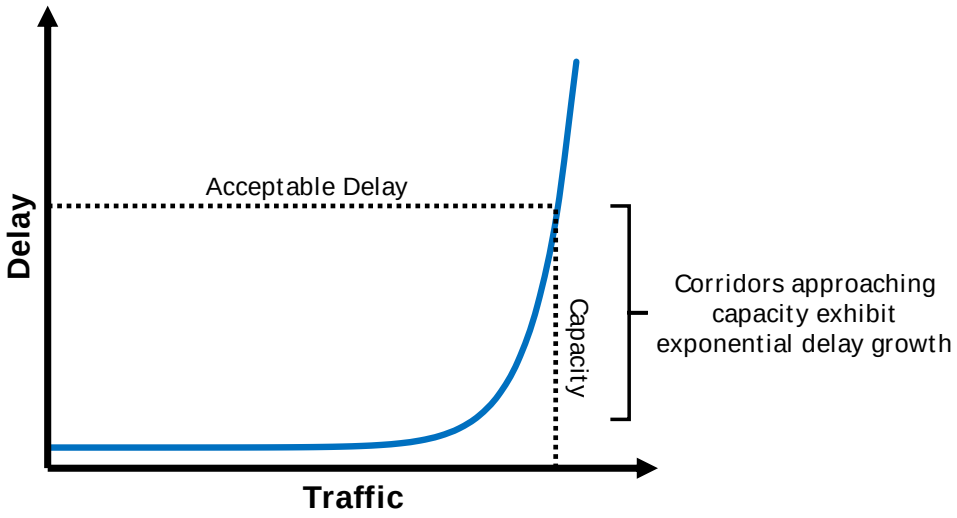
Figure 4 - Average velocity of various CSX Subdivisions

Figure 5 - Average velocity of RTC scenarios. Dotted line represents 25% and 75% levels compared to NO&M Subdivision

Furthermore, average train velocities across five simulated RTC scenarios 2019 F (Base Case), 2019 P, 2019 P Length, 2039 F (2039 Base Case), and 2039 P Length are all within a very narrow range of each other. For both 2019 and 2039 scenarios, average daily train velocities with and without Amtrak Gulf Coast Service are nearly identical. Notably, average train velocity for the 2039 P Length scenario is well within a standard deviation of the average train velocity in the 2019 F scenario, which is the Gulf Coast Corridor in 2019 without the presence of any passenger train service. This shows that even with predictions of freight growth to 2039, operational changes can be made to accommodate Amtrak service while preserving existing corridor fluidity.

The 2019 P and 2019 P Length cases are additionally notable in that they proved that there is the ability to operate *two* additional freight trains on the Gulf Coast Corridor by operating trains realistically sized to fit existing siding infrastructure. Using the 2019 P case as a baseline, CSX and NSR's experts state that "reduction in train lengths does not meaningfully change the impact of the proposed passenger service."[15] This indicates that freight train performance metrics in the 2019 P and 2019 P Length cases are not significantly different despite differences in train count. While it is true that delays on a corridor generally increase exponentially with volume,[16] the exponential growth does not become significant until the corridor approaches its capacity limit (**Figure 6**). CSX and NSR's RTC modeling results show that even with Amtrak Gulf Coast Service, the Gulf Coast Corridor is not close to its capacity limit given that delays did not exponentially increase and "[did] not meaningfully change."[17]

Figure 6 – Relationship between delay and traffic levels



[15] RTC Supplemental Report at 27
[16] Mattsson, L.G. Railway Capacity and Train Delay Relationships, Critical Infrastructure: Reliability and Vulnerability. Springer Berlin Heidelberg, pp 129-150.
Krueger, H. Parametric Modeling in Rail Capacity Planning. In: Proceedings of the 1999 Winter Simulation Conference, 1999.
[17] RTC Supplemental Report at 27

In sum, operational changes, including changes in train length, schedules, and operating practices, can be implemented to improve the overall utilization of the Gulf Coast Corridor's existing capacity without significantly impacting corridor fluidity.

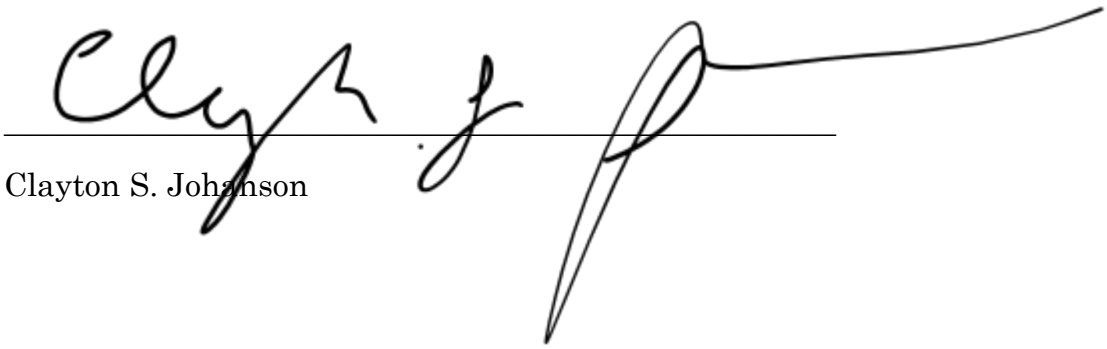
Conclusions

The additional analysis put forth by CSX and NSR's expert witnesses does not meaningfully contextualize impact to shippers on the Gulf Coast Corridor. They utilized a flawed methodology to measure potential impacts to customers through the measurement of relief crews rather than using a customer-focused metric such as the CSX's Customer Service Data. Finally, the new RTC analyses continue to report metrics that the Gulf Coast Corridor will perform in a range comparable to other similar corridors featuring Amtrak service.

VERIFICATION

I, Clayton S. Johanson, declare under penalty of perjury that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 31st day of August 2022.



Clayton S. Johanson

VERIFICATION

I, Darkhan Mussanov, declare under penalty of perjury that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 31st day of August 2022.

Darkhan Mussanov